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SCHOOL LAW LECTURES—PART II.

THE SCHOOL LAW,  
OFFICIAL REGULATIONS

AND  
DECISIONS OF THE SUPERIOR COURTS,

RELATING TO

TOWNSHIP, COUNTY, CITY, TOWN AND INCORPORATED VILLAGE  
MUNICIPAL COUNCILS;

SCHOOL SECTION BOUNDARIES;

CITY, TOWN AND VILLAGE PUBLIC SCHOOL BOARDS;

ARBITRATIONS AND AWARDS;

PUBLIC SCHOOL INSPECTORS; BOARDS OF EXAMINERS;

CHIEF SUPERINTENDENT AND COUNCIL OF PUBLIC INSTRUCTION;

ALSO, THE ACTS RELATING TO

ROMAN CATHOLIC, PROTESTANT AND COLOURED SEPARATE SCHOOLS.

WITH A COPIOUS INDEX TO PARTS I. & II.

BEING THE SUBSTANCE OF LECTURES TO NORMAL SCHOOL STUDENTS

BY

J. GEORGE HODGINS, LL.D., *Barrister-at-Law,*

*Deputy Superintendent of Education for Ontario.*

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HODGINS, LL.D., Barrister-at-Law, in the Office of the Minister  
of Agriculture.

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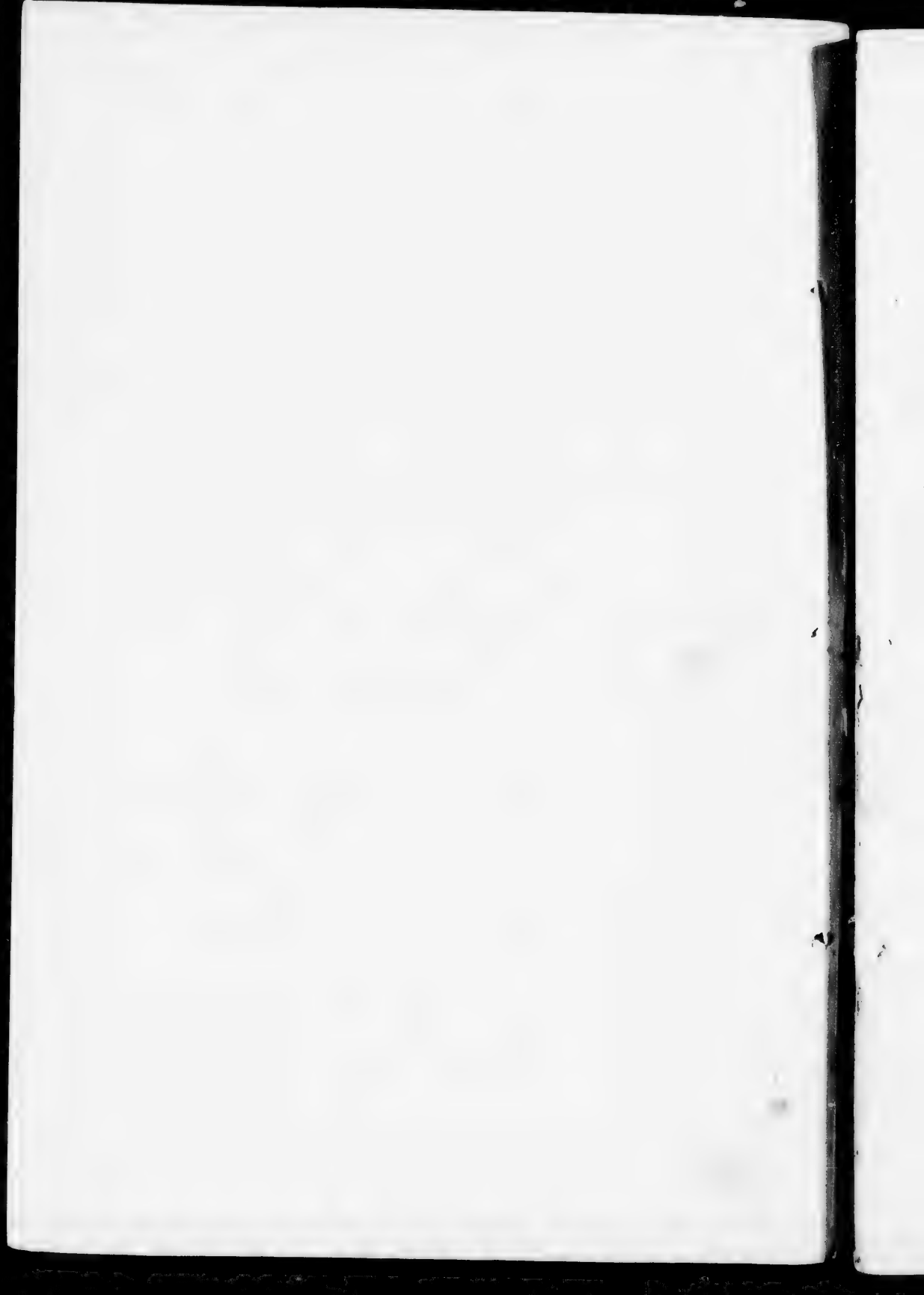
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## PART II.

# PUBLIC SCHOOL LAW.

## CHAPTER I.

### RELATING TO MUNICIPAL COUNCILS.

#### **Section 1.—Municipal Law the Basis of the School Law.**

The Municipal Law of the Province forms the basis on which the school system rests. The theory of that law is, that every inhabitant of the country forms part of some local corporation, and that by means of delegates, which he and his fellow corporators elect for that purpose, he acts and speaks through that corporation—be it a municipal or school corporation—in all matters relating to local affairs and the general interest of the schools, etc.

#### **2.—How the School Law classifies Municipal Corporations.**

For the purposes of the School Acts, the five kinds of municipal corporations in Ontario are divided into the three following classes :—

- I. County councils.
- II. Township councils.
- III. City, town, and incorporated village councils.

The functions of each of these three classes, under the School Law, will be discussed separately.

#### **3.—Powers and Duties of County Councils under the School Law.**

Under the Public School Law the powers and duties of county councils are limited to the following matters :—

1. The raising of the local equivalent to the Legislative grant for public schools.
2. The appointment of school treasurer and auditors of county, township, high and public school accounts.
3. The appointment of public school inspectors.
4. The appointment of county boards for the examination of public school teachers.

5. The supervision (upon appeal) through special committees, of all by-laws and resolutions of township councils affecting school section boundaries.

6. The establishment and maintenance of county public school libraries.

#### **4.—County Councils to Raise Equivalent to Legislative School Grant.**

Each county council is required to levy yearly upon the ratable property in the several townships of the county, such sums of money as shall be at least equal, (clear of all charges of collection,) to the amount of school money apportioned by the Chief Superintendent of Education to the several townships thereof for the year.

NOTE.—So entirely voluntary was the character of our public school system at first that it provided for the raising or not, at the pleasure of municipal councils, of this equivalent. Should a council refuse to raise it, the School Law was inoperative within such municipality. Some councils availed themselves of this privilege for a year or two, and some longer; and in one municipality (Richmond, County of Carleton), if not in more, the Public School Law was inoperative on account of this refusal for some years. A change in the status of this municipality interposed some technical difficulty to the adoption of the School Law by the town council, when it was disposed to do so. This difficulty was only removed in 1865. The voluntary character of the law, so far as it relates to the raising of the county equivalent to the Legislative School Grant, was changed on the consolidation of the School Law in 1856. The raising of the county equivalent was then made obligatory.

#### **5.—Aid to New and Needy School Sections.**

The law provides that, upon the recommendation of a county inspector, the county council may raise such additional sums as it may think proper, for the purpose of giving "special or additional aid to new or needy school sections."

NOTE.—The conditions on which these Schools are also aided by the Education Department, can be ascertained on application to it.

#### **6.—Restriction as to the Expenditure of the County Equivalent.**

The law expressly restricts the expenditure of the county equivalent to one object, namely: "the payment of the salaries of legally qualified public school teachers," and to no other purpose.

NOTE.—So carefully has the law guarded the application of this money, that, in the 123rd section of the Consolidated School Act, it declares that the Legislative School Grant "together with at least an equal sum raised annually by local assessment, shall constitute and be called the public school fund of such county, township, city, town or village; and no part of the salaries of the chief superintendent, school inspectors, nor of any other persons except teachers employed, or of any expenses incurred in the execution of this Act, shall be paid out of the said public school fund, but such fund shall wholly, and without diminution, be expended in the payment of teachers' salaries, as herein provided." (See section 10 of this chapter.)

**7.—Time when County Equivalent shall be available.**

The law requires that "the sum annually required to be levied in each county, for the salaries of legally qualified teachers, shall be collected and paid into the hands of the county treasurer, on or before the fourteenth day of December, in each year."

**8.—Payment to Teachers not to be refused after 14th of December.**

Should the council fail, from any cause, to collect and place in the county treasurer's (or township sub-treasurer's) hands the county equivalent, the law declares that "no teacher shall be refused the payment of the sum to which he may be entitled from such year's county school fund, but the county treasurer shall pay the county inspector's lawful order in behalf of such teacher, in anticipation of the payment of the county school assessment; and the county council shall make the necessary provision to enable the county treasurer to pay the amount of such order."

NOTE.—The inspector's check on the county treasurer, or the township sub-treasurer, must be based upon the trustees' lawful order.—*See Chapter on Inspectors.*

**9.—County Council to take security from all persons entrusted with School moneys.**

Each County Council is requested to "see that sufficient security is given by all officers of the council to whom school moneys are entrusted." Should it not do so, it becomes surety for these officers itself.

**Municipal accountability for School Moneys.**

NOTE.—The Assessment Act of Ontario, 32 Vic. cap. 36, enacts as follows :  
197. Every county, city and town shall be responsible to Her Majesty, and to all other parties interested, that all moneys coming into the hands of the treasurer or chamberlain of the county, city or town, in virtue of his office, shall be by him duly paid over and accounted for according to law.

**Treasurers to be responsible in Counties and Cities.**

198. The treasurer or chamberlain, and his sureties, shall be responsible and accountable for such moneys in like manner to the county, city or town; and any bond or security given by them for the duly accounting for and paying over moneys coming into his hands belonging to the county, city or town, shall be taken to apply to all such [Provincial] moneys as are mentioned in the *one hundred and ninetieth* section, and may be enforced against the treasurer or chamberlain in case of default on his part.

**School Moneys may be retained by the Crown.**

199.—The bond of the treasurer or chamberlain, and their sureties, shall apply to *school moneys* and all public moneys of the Province; and in case of any default, Her Majesty may enforce the responsibility of the county, city or town, by stopping or retaining a like amount out of any public money which would otherwise be payable to the county, city or town, or to the treasurer or chamberlain thereof, or by suit or action against the corporation.

**Remedy to person aggrieved by default of Treasurer.**

200. Any person aggrieved by the default of the chamberlain or treasurer may recover from the corporation of the county, city or town, the amount due or payable to such person, as money had and received to his use.

**10.—No deduction from legislative grant, or fee can be charged by County Officers.**

In order that each teacher shall receive the full amount, to which he is entitled from the legislative grant and county assessment, the school act provides that the county council shall "see that no deduction is made from the school fund by the county treasurer or sub-treasurer for the receipt and payment of school moneys."

NOTE.—This provision of the law is designed to prevent the charge of any fee (or discount) for payment of the inspector's check by municipal treasurers in any part of the county. It is also unlawful for a treasurer to pay a teacher in depreciated silver or other coin, or to charge any discount or premium on it. The legal tender act provides that not more than ten dollars can be paid in silver, without the consent of the person to whom payment is made. See note to Section 6 of this Chapter.

**11.—School Sub-Treasurer for Townships may be appointed.**

In order that every facility shall be given for the payment of teachers in every township, and that they shall not be required to go to the county town, the law authorizes County Councils to "appoint one or more sub-treasurers of school moneys for one or more townships of the county."

**12.—Township Sub-Treasurers subject to general regulations.**

In case the County Council should appoint township sub-treasurers, the law provides that "each such sub-treasurer shall be subject to the same responsibilities and obligations in respect to the accounting for school moneys, and the payment of lawful orders for such moneys given by any county inspector within the parts of the county for which he is appointed sub-treasurer, as are imposed by this Act upon each county treasurer, in respect to the paying and accounting for school moneys." (See note to section 10 of this chapter.)

**13.—Care of, and accountability for, School Moneys.**

In order that due care shall be exercised over the expenditure of public school moneys in the hands of county municipal officers, the Act provides that each "county council shall annually, or oftener, appoint auditors, who shall audit the accounts of the county treasurer and other officers to whom school moneys have been entrusted, and who shall report to such council." (See next section.)

**14.—County Clerk to transmit audited Accounts to Chief Superintendent.**

With a view to secure uniformity, as well as a general supervision over the various township school accounts, the Act directs that the



"county clerk shall transmit to the chief superintendent of education, on or before the first day of March in each year, a certified copy of the abstract of the report of the auditors, and shall also give any explanation relating thereto, as far as he is able, which may be required by the chief superintendent."

**15.—Clerk to report Appointments and Proceedings to Chief Superintendent.**

The law further provides that the "county clerk shall notify the chief superintendent of education, of the appointment and address of each county inspector and of the county treasurer; and shall likewise furnish him with a copy of all proceedings of the council relating to school assessments and other educational matters."

**16.—Council may establish County Library for Teachers, &c.**

An excellent provision of the law gives facilities for the establishment of a teachers' professional library, or if desirable, a library for the ratepayers of the county. The council is therefore authorized to "raise by assessment such sums of money as it may judge expedient, for the establishment and maintenance of a county public school library."

NOTE.—The Education Department will grant one hundred per cent. on all remittances sent to it from the county council for the purchase of books not only for a county public school library, but also for a county teachers' association library, or for a county jail library, &c. See departmental notices on this subject.

**17.—Appointment of County Inspectors of Public Schools.**

The school law authorizes each county council to appoint a public school inspector for a whole county or for a riding; but in no case can such an officer have charge of more than one hundred and twenty schools, or less than fifty, except in the case of French and German localities, in which case an inspector may have charge of forty schools.

NOTE.—The qualifications of inspectors, and other provisions of the law, will be referred to in the chapter relating to Public School Inspectors.

**18.—Appointment of County Boards of Examiners.**

Each county council is authorized and required to appoint a county board for the examination of public school teachers. The law also provides that the board shall consist of not less than three, or more than five members, one of which shall be the county inspector.

NOTE.—The qualifications of county examiners and other provisions of the law relating to them, will be stated in the chapter relating to County Boards of Examiners.

**19.—Appeals against the alteration of School Sections by Township Councils.**

Under the authority of the school law of 1871, appeals can be made to the county council against the by-laws or resolutions of a

township council, relating to the formation or alteration of the boundaries of school sections. The School Act provides for two classes of appeals to the county council, against any past or present by-law or resolution of a township council, in forming or altering the boundaries of a school section.

(1.) *The first of the two classes of appeal may be made to the County Council to confirm or set aside the by-law or resolution of a Township Council.*

1. By a majority of the trustees, or
2. By five ratepayers of the section concerned.

And the county council may, at its discretion, appoint a committee of not less than three, or more than five, persons to investigate the complaint, and to "confirm or disallow the by-law, or resolution, complained of." In this case three things are provided for—(1) investigation of the complaint; (2) confirmation of the by-law or resolution, or (3) setting it aside. No modification can be made in the by-law or resolution. It must be either confirmed as a whole, or set aside as a whole. Thus, in the first case, the by-law or resolution, if confirmed, shall take effect on the 25th of December next after its passing, or, if already in operation, letting it remain in full force; or thus, in the second case, if the by-law or resolution be set aside, the boundaries of the school section shall remain as they were before any alteration was made in them by the township council.

(2.) *Second case (or class) of appeal for the appointment of a Committee to revise or alter boundaries objected to.*—The second case, provided for by the new act, is one of "petition" or "representation," to revise or alter the boundaries complained of, which may be made to the county council:—

1. By a majority of the trustee corporations concerned, or
2. By a majority of the ratepayers "of two or more school sections in a township, present at special meetings, called for that purpose." In either case the petition or representation may be "to revise or alter the boundaries of the school section of such township, so far as to settle the matters complained of." In this case the county council is also authorized to appoint a committee of not less than three, nor more than five, members.

(3.) *Composition and powers of the County Council Committee.*—In both of the cases mentioned, the county judge and the county inspector are *ex-officio* members of the committee. But in neither case is any person competent to act on either of the committees "who was a member of the township council that passed the by-law or resolution complained of." The law further provides that "the alteration made in the boundaries of any school section by this committee, shall not take effect until the end of the year during

which they shall be made. The inspector is required to give "due notice" of any alterations made by the committee, "to the clerk of the township, and to the trustees of the school section concerned."

NOTE.—It will be seen that these portions of the law provide for two things, viz., (1) for a veto power by the committee of the county council, to be exercised either in the repeal or confirmation of any by-law or resolution passed by a township council *at any time*, which may relate to the boundaries of a school section. This provision of the law stops short however at that point, and restricts the committee to one of two things as we have shown. (2) The law next provides for the revision or alteration in the boundaries of two or more school sections, (on a petition to that effect from such sections,) at the pleasure of the committee. It virtually gives this committee all the powers of a township council, so far as they relate to the formation or alteration of school sections, and so far as such action can settle the matters complained of.

#### **20.—Trustees acting under a Township By-law protected.**

Even should a trustee corporation act under a by-law of a township council, which may be set aside or modified by the county council committee, or by the township council itself, the school law of 1860 provides that they "shall not be liable to any prosecution, or the payment of any damages for acting under any by-law of a municipal council before it has been quashed."

NOTE.—The two hundred and fifth section of the Municipal Institutions Act also provides, that in a case a by-law, order, or resolution be illegal, in whole or in part, and in case anything has been done under it, which, by reason of such illegality, gives any person a right of action \* \* \* every such action shall be brought against the corporation alone, and not against any person acting under the by-law, order, or resolution. See also decision of the Courts on the protection to which trustees are entitled in the discharge of their duties. Part I., chapter ii., section 3, sub-section (6), page 15.

NOTE.—In regard to the decisions of the Superior Courts, relating to the alteration of school section boundaries by municipal councils, see page 95.

## **CHAPTER II.**

### **POWERS AND DUTIES OF TOWNSHIP COUNCILS AND THEIR OFFICERS.**

#### **1.—Jurisdiction of Township Councils under the School Law.**

The powers and duties of Township Councils and their officers relate to the:—

- (A.) Formation of new school sections.
- (B.) Alterations in the boundaries of any existing section.
- (C.) Detaching of their part of township from union sections.
- (D.) Union of two or more school sections into one.
- (E.) Union of all the school sections under a township board.
- (F.) Establishment of a township model school and union of an adjoining school section with such model school.

- (G.) Raising of school rates at the request of a trustee corporation.
- (H.) Giving authority to School Trustees to borrow money.
- (I.) Issuing debentures for such loans, and providing a yearly sinking fund for their repayment.
- (J.) Lending (clergy reserve) municipalities fund to school trustees.
- (K.) Purchase, for building purposes, and sale of school sites, (under the Municipal Act.)
- (L.) Raising money "for the establishment and support of public schools according to law," (under Municipal Act.)
- (M.) Correcting mistakes and supplying omissions in assessor's roll.
- (N.) Receiving from trustees and having care of all bonds of school section collectors.
- (O.) Paying school trustees after the close of the year any uncollected rates on non-resident lands, as returned to the clerk by the trustees.
- (P.) Establishment and support of a township free public school library.

NOTE.—See also Part I., chapter iii., sections 12 and 13, pages 33, 34.

## 2.—Powers and Duties of Township Officers.

The school law defines the duties of township officers as follows :—

- (A.) *Township clerks* are required to—
  - (1.) Make out a township school map in duplicate.
  - (2.) Notify the person appointed by the township council to call a first school meeting either in a new school section or for a township school board.
  - (3.) Receive from county inspector and insert on the township map description of boundaries of union school sections.
  - (4.) Furnish county inspectors with copies of all proceedings of the township council relating to educational matters.
  - (5.) Allow school trustees to have access to the township assessment roll.
  - (6.) Receive annually from trustees a return of all school assessments imposed in their section during the year.
  - (7.) Receive at the end of the year from trustees a return of uncollected rates from absentees.
  - (8.) Receive at the end of the year and lay before the council the school trustees' return of uncollected school rates on non-resident lands.
  - (9.) Make a return to the County of all assessments for public school purposes in their townships.
- (B.) *Township Assessors* are required to—
  - (1.) Assess and return on their roll lands within each school section, including each undivided occupied lot. (See chapter iii, section 8, in First Part of these Lectures.)
  - (2.) Allow school trustees to have access to these rolls.

(C.) *Reeves of townships* have authority (with the county inspector) to—

- (1.) Form and alter the boundaries of union school sections.
- (2.) Equalize the assessment of union school sections.

### 3.—Resolution or By-law—Which should be used.

Although it is competent for a township council to pass resolutions in regard to school matters generally (and in unimportant things a mere resolution may be sufficient), yet, in any matter affecting assessments or the alteration of school section boundaries, the resolution should be subsequently embodied in a by-law, and duly recorded on the minutes of the council. No by-law can be lawfully altered by a resolution; it must be by a by-law. See sec. 20 of preceding chapter.

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## CHAPTER III.

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### FORMATION AND ALTERATION OF RURAL SCHOOL SECTION BOUNDARIES.

#### 1.—Formation of School Sections by a Township Council.

In order that every part of a township having municipal organization, shall have facilities for public school education, the law requires each township council to "form portions of the townships where no schools have been established, into school sections," "appoint a person in such new section to call a first school section meeting," and "cause such person to be notified" of this duty by the clerk.

NOTE.—The by-law or resolution of a township council forming a new school section out of unorganized portions of a township, goes into effect immediately; so also where two sections are united; in all other cases the alteration does not take effect until the 25th of December next after the passing of the by-law or resolution making the alteration.

#### 2.—Minimum size of all School Sections.

No school section can be lawfully formed "which shall contain less than fifty (50) resident children, unless the area of such section shall contain more than four square miles," *i. e.*, each side of the section shall average a mile in length.

#### 3.—Alteration in the Boundaries of existing School Sections.

Each township council has full power to alter the boundaries of any school section within its jurisdiction, without the consent (but not without the knowledge) of the trustees and ratepayers of the section concerned.—*See Decisions of the Courts on page 95.*

**4.—Notice of alteration in Boundaries to all parties concerned.**

The law declares that "all parties to be affected by a proposed alteration in the boundaries of a school section," shall be "duly notified of the intended step" on the part of a township council, should it without application having been made to it, alter the boundaries itself. Now, "application to it to alter such boundaries," (if made by popular petition,) may be considered as "constructive notice" to all the ratepayers.

**5.—What notice of intended alterations in Boundaries is sufficient.**

"Due notice" would be held to have been given "to all parties concerned" by the posting for a month, or even for less time, in each public place of the section or locality to be affected by the alteration, a written or printed notice that such alteration would be made.

**6.—"Constructive Notice," and who is the judge of sufficient notice.**

In case the proposed alteration in the boundaries of a school section should be agitated in it for some time, and resolutions should be passed at public meetings on the subject, or petitions, circulated and signed for or against it, it would be held that without posting formal notices on the subject, all parties concerned had received at least "constructive notice" sufficient to meet the requirements of the law. The late Chief Justice Robinson has decided (13 Q. B. R., 408) that the township council is the judge as to whether sufficient notice had been given in all cases.—*See chapter vi. of this Part.*

NOTE.—The Court of Queen's Bench has also decided (13 B. R., 408) that the ratepayers of a section (the boundaries of which it is proposed to alter) residing outside of the township, if ratepayers of the section, need not necessarily be notified. It would be as well to publicly notify them, however.—*See cap. vi. of this Part.*

**7.—What a By-law or Resolution altering Boundaries should show.**

(1.) As a township council is the judge as to whether sufficient notice had been given in each case, the preamble of a by-law or resolution altering the boundaries of a school section should, as a general rule, recite the *fact* that "due notice having been given," &c.

(2.) The boundaries of any altered section should be defined with "sufficient certainty" to enable all parties concerned to know in what school section they are placed by the alteration.

**8.—When alterations in the boundaries of School Sections take effect.**

The law declares that the alteration in the boundaries of a school section "shall take effect on the 25th of December next after such

alteration has been made." It is not, therefore, necessary to state this fact in the by-law or resolution making the alteration.

NOTE.—In order that all parties concerned should have a sufficient time, before the end of the year, to petition the county council against the alteration in the boundaries of their section, it is suggested that no such alteration be made by a township council after its May meeting. Dissatisfied parties could then petition the county council at its June meeting, and the committee or committees appointed by it, under the authority of the School Act of 1871, would have ample time, before the alteration could take effect, to confirm or set aside the by-law or resolution objected to, or otherwise "settle the matter complained of." If no objection be made, however, the alteration can be made at any time before the 25th of December.

#### 9.—Disposition of School Property in altered or united Sections.

Should a school site, school-house, or other school property "*be no longer required*," for school purposes in school sections which have been united, or their boundaries altered, such site, house or property should be sold (or exchanged at a valuation, as a meeting may determine), and the proceeds, after paying all the debts for the year of the sections concerned, should be divided *pro rata* for school purposes among the sections, or part sections concerned. In this way the rights and interests of all the rate-payers can be consulted, and (in the case of altered sections) equal justice can be done to those who remain in the old section, and to those who are separated from it.

#### 10.—When School Property in altered Sections, etc., should be Divided.

The law says: "in case a school site, or school-house, or other school property *be no longer required*, in consequence of the alteration or union of school sections, the same shall be disposed of by sale or otherwise, and the inhabitants transferred from one section to another shall be entitled, for the public school purposes of the section to which they are attached, to such proportion of the proceeds of the sale \* \* \* [after paying the debts of the section concerned,] as the assessed value of their property bears to that of the inhabitants of the section from which they have been separated," etc.

#### 11.—Meaning of the phrase when "*No longer required*."

The whole application of this provision of the law turns upon the meaning of the phrase "*no longer required*." The following, we believe to be the meaning and intention of the Legislature in this matter:—

(1.) *School Property, when required in an "altered" section.*—The alteration in the boundaries of a school section may be made with or without the consent of the parties separated from it. If made with their consent, they cannot complain if the result has deprived them of the benefit of rates paid by them for building or improving the school



premises of the section which they have left. If made against their consent, after having contributed to the erection of the school-house, it seems a hardship to compel them to pay rates again to erect another house, (it may be in a new section,) to which they may have been transferred. This, of course, is an extreme case, as the section to which they may have been transferred, may have a good school-house, toward the erection of which they have contributed nothing. The School Law does not, therefore, discriminate in such cases, where the chances may be equal, and where it is presumed, the township council has fully considered the equities of the case, and where at all events, the parties aggrieved have the right to appeal to the county council for redress. But, in either case, the transfer of some of the rate-payers of another section does not of itself render the old site and school-house less available to those who remain. Thus, under such circumstances, no claim could arise on the ground that the school house or premises were "no longer required," as the fact was otherwise; and, therefore, in such a case, the sale of the property and disposal of the proceeds could not be either legally or equitably enforced.

(2.) *School Property, when "no longer required," in an altered section.*—An alteration in the boundaries of a school section may be so made that the school site and premises shall be placed at or near the boundary line between two sections, or in an angle, or other inconvenient place, so that it cannot be used for the school purposes of the section, and, therefore, be "no longer required." In that case it must be sold or exchanged for the benefit of the parties concerned, and then the proceeds should be divided, as pointed out in the Act.

(3.) *Difference between a "Union" and a "United" Section.*—The provisions of the law, which we have been considering, applies equally (as their circumstances in these matters are indetical) to ordinary sections and to union sections, made up of parts of two or more townships. The law refers, however, to "united" sections, that is to two or more sections united into one. In such a case the public meeting of the "united" section must determine what shall be done with the old house, or houses and premises, whether they shall be sold or exchanged; but under no circumstances can a claim for a division arise in such a case.

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## CHAPTER IV.

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### FORMATION AND ALTERATION OF UNION SCHOOL SECTION BOUNDARIES.

#### 1.—Kinds of Union School Section, and who shall form them.

Two kinds of union schools sections can be formed :—

- (1.) Between parts of townships, in one or more counties : to be formed by the reeves and inspectors concerned.

- (2.) Between a town, or incorporated village, and parts of townships: to be formed by the reeve, county inspector, and board of trustees.

Union school sections of parts of townships can only be formed and altered by the reeves and inspectors concerned, on the same conditions as to the notice of parties interested, etc., as are requisite in the case of ordinary school sections. The formation or alteration may be initiated by the reeve and inspectors concerned, or by a request from the locality itself. It may be made against the wishes, but not without the knowledge of the parties concerned.

**2.—What a Township Council may and may not do in regard to Union Sections.**

A township council has no power to form or alter union school sections—as *such*. It may, however, so far alter the boundaries of a union section as to detach the whole of its part of a township from the union, but it cannot otherwise interfere with union school sections. It must detach the whole of its part of the township from the union, (and not a portion of it,) and must form the part detached into a new section, or attach it to one or more other sections already existing.

**3.—Respective powers of the Inspector and of the Reeves concerned.**

The law devolves upon the county inspectors the right and duty of calling a meeting of the reeves and inspectors concerned to form or alter the boundaries of a union section. In case the union affects two counties or inspectorates, the meeting may be called by “any county inspector,” as provided by law. After the union has been formed, or the boundaries altered, each inspector concerned is required to transmit forthwith to the clerks of the townships under his jurisdiction, and affected by the union, etc., “a copy of the resolution by which the formation or alteration was made.” In the case of a union of part of a township with a town or village, the inspector is to transmit the same notice to the town or village clerk, as the jurisdiction of the council for school taxing purposes extends over the entire school division, or district thus made.

NOTE.—Reeves and inspectors are subject to the same law and regulations, in forming and altering union school sections, as are township councils in forming or altering ordinary school sections in townships. See preceding and succeeding chapters.

**5.—Union of a Town or Incorporated Village and parts of Townships.**

Frequently, on the incorporation of a town or village, it has been considered desirable, either (as in the case of a village) to retain the

old school boundaries or to enlarge them. Formerly this could not be done, but now the reeves, county inspector and board of trustees concerned, can form such a union. They can also alter the boundaries of a union division thus formed. In doing so, however, they too must be governed by the same rules and restrictions as are township councils, in similar circumstances.

**6.—Old School Boundaries of a Village to remain—When?**

In order to simplify cases of this kind when they first arise, the law provides that the school boundaries of a newly incorporated village existing at the time of, and during the transition period of its incorporation, shall remain unchanged "until altered under the authority of the school law."

**7. Who shall Form and Alter Town and Village School Boundaries?**

In the case of the union of a town, or incorporated village, and parts of an adjoining township or townships, the law says that the union shall be formed (or altered) by the reeves, county inspectors and board of trustees concerned. It was not the intention of the act that every member of the board of trustees of a town or village should have a vote equally with the single representative of a township, etc., thus outvoting the reeve six to one. The law speaks of the board as a *unit*, and as such only can it have a voice. It should, therefore, be represented by the chairman, or other member, specially chosen by the board for that purpose. When the law was passed (in 1860), each township, as a general rule, had its own local superintendent, and would thus be represented by two persons, viz., the reeve and the superintendent. In that case the board was entitled to an equal representation within the township; but, under the new law the office of township superintendent is abolished, and the county inspector does not represent one township more than another, while he is (as in the case of a village) also its representative—villages being under the jurisdiction of county inspectors. Town inspectors cannot take part in the formation or alteration of these unions, as they are the officers of the board which is already represented.

**8.—When shall the alteration in the Boundaries take effect?**

As in the case of rural school sections, an alteration in the boundaries of a town or village school division shall take effect on the 25th of December next after being made.

**9.—Who shall equalize the Assessment in Union Sections or Divisions?**

As the rate of assessment varies in different municipalities, the law provides that the assessment in the different parts of a union school section or division, shall be equalized each year by the reeves and county inspectors concerned.

## CHAPTER V.

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### UNION OF TWO OR MORE SECTIONS INTO ONE.

#### 1.—When Two or more Sections may be formed into One.

Should "a majority of the assessed freeholders and householders" "of each of two or more" school sections in a township desire a union of their respective sections into one, the trustees or inspector concerned should call the necessary school meeting in each section, for the purpose of giving expression to such desire. This can be done by resolution, which must be agreed to, not merely by a majority of ratepayers present at each school meeting, but by a majority of the ratepayers of each section.

#### 2.—Who may form Two or more Sections into One.

The trustees of each of the sections, which desire to be united, should transmit to their township council a copy of the resolution passed on the subject of union, and request the council to form the union desired. This request the law requires the council to comply with within a reasonable time.

#### 3.—When may the Union of Two or more Sections take effect.

The union of two or more sections into one, as formed by the township council, may take effect immediately, or at the end of the year, at the convenience or discretion of the parties concerned.

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## CHAPTER VI.

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### DECISIONS OF THE SUPERIOR COURTS IN REGARD TO SCHOOL SECTION BOUNDARIES.

(1.) *Notice of Alteration necessary before forming or altering School Section.*—The Court of Queen's Bench has decided the following case: On the 19th of December, 1857, a township council passed a by-law creating a new school section called No. 9, out of sections 13 and 8, and defining what should therefore constitute section 13. Notice was given of the intention to pass this by-law, but it was done at the request of the freeholders and householders, expressed at a public meeting. On the contrary, the change made appeared to be opposed to the wishes of a majority of the inhabitants. On the 8th of May, 1858, a by-law repealing it was passed, of which no notice had been given to the parties interested, thus restoring the sections to their former position; and on the 10th of September, 1859, another by-law was passed, assessed the section 13 as it originally stood, for

the expenses of building a school house, &c. *Held*, that the by-law of May, 1858, must be quashed, for the previous by-law was legal, and a by-law repealing it, which would in effect make an alteration of school sections, could not be passed without notice of those interested; and that the by-law levying a rate on section 13, as it stood before 1857, must necessarily be quashed also, for that would include part of what was section 9.—*Shaw et al. and the Corporation of the Township of Munvers*, 19 Q. B. R. 288.

(2.) *Notice only and the consent necessary in altering School Section.*—The Court of Queen's Bench has decided the following case:—Any alteration in the boundaries of a section may be effected *after* due notice to all parties interested, and independently of the consent or request of its Trustees or inhabitants. But the *union* of two or more sections into one, cannot be effected without the concurrence of the inhabitants of each of the sections concerned. The Court of Queen's Bench in confirming the decision of the Chief Superintendent on this subject, holds that an *alteration* in the boundaries of a school section under the [fortieth] section of the Consolidated School Act, does not constitute it a new section, or make it necessary to call a school meeting to elect new trustees. Such an alteration only involves a change of parties, from being members of one school section, and becoming members of another school section, and takes effect the 25th December next after. Nor is it necessary to show that the people desire an alteration of the boundaries to authorize the Council to make it.—*Chief Superintendent, appellant, in re Trustees No. 2, Moors v. Wm. McRae*, 12 Q. B. R. 525.

(3.) *Notice should be given before the alteration of School Section be made.*—The Court of Common Pleas has decided that before any alteration be made in the limits of a school section, notice must be given to the parties interested in the proposed alteration, before the passing of the by-law authorizing the same.—*Griffiths v. Municipality of Grantham*, 6 C. P. R. 274.

(4.) *Township Councils in altering Sections are not required to give notice to parties residing out of their township—What is due notice.*—The Court of Queen's Bench has decided the following case:—The municipal council of a township passed a by-law, disuniting a union section with another township, and uniting such part section and two distinct sections of its own township into one, after a petition from certain inhabitants of the section concerned. *Held* by the Court, that the council was not bound to give notice to the inhabitants of that part of the union section belong to the other township—it being out of its jurisdiction; but in regard to the parties within its authority, it was required to be satisfied that *due notice* had been given. It is made the judge of such "due notice." The intention of the [forty-seventh] section of the [Upper Canada Consolidated Public School Act, is that the township council may pass a by-law for bringing back exclusively to its own jurisdiction, any part of the township united to another; and that it make what arrangements it thinks most convenient for giving the inhabitants the benefit of the public school law; but it cannot do so unless it is clearly appears that all parties have had due notice.—*In re Ness v. Municipality of Saltfleet*, 13 Q. B. R. 408.

(5.) *Preliminaries to be observed in forming or altering School Sections.*—In effecting alterations, the municipal council may take the initiatory, and can act without any previous request from a public meeting; but if they enter upon such a measure of their own accord, they must see that all parties affected by the alteration have been duly notified of the intended step; and if they have been applied to on the subject, they are not required to entertain the application until they see that such notice has been given, of which they must be the judges.—*Chief Justice Robinson; In re Ness v. Saltfleet Municipality*, 13 Q. B. R. 408.

(6.) *Time when alteration in School Section takes effect—Sufficient notice must appear.*—The Court of Queen's Bench, in affirming *Ness and the Municipality of*

*Saltfleet*, 13 Q. B. R. 408, has decided, that to alter the boundaries of a school section within a township, not being a union section, it is only necessary that the alteration shall not go into effect before the 25th of December following, and that it must appear to the municipality that all parties affected have had due notice. *Held*, also, that notice in this case was sufficiently shown.—*In re Issac and the Municipality of Euphrasia*, 17 Q. B. R. 205.

(7.) *Boundaries of new or altered Sections must be defined with certainty.*—The Court of Queen's Bench decided that the by-law set out in this case was bad, for not describing or defining with sufficient certainty the limits of the school sections intended to be established by it.—*Hawke v. Municipality of Markham*, 17 Q. B. R. 562. [See also the following decision.]

(8.) *Uncertain Boundaries of School Sections for Coloured People.*—The same Court has decided that:—A by-law recited that certain coloured inhabitants had petitioned for an alteration of school section No. 9, and for the establishing of two separate schools for coloured people in the township, and that it was expedient to grant their request, by defining the boundaries of said sections so as to include the coloured inhabitants of the township; and it set out the limits of each section to be established, the last boundary of No. 1, being "thence to include all and singular each and every lot or parcel of land occupied, or which shall or may be occupied, or which shall or may be occupied, by any coloured person or persons in the front part of the said township of Chatham, and the last boundary of No. 2, thence to include all and singular each and every lot or parcel of land occupied, or which shall or may be occupied, by any coloured person or persons in that part of the said township not included in the section No. 1, as described in the first section of this by-law." *Held*, that these boundaries were indefinite and fluctuating, and that the by-laws were therefore bad. Remarks as to how far the court are bound to quash by-laws, even when moved against proper and found bad.—*In the matter of Simmons and the Corporation of the Township of Chatham*, 21 Q. B. R. 75.

(9.) *Township School map evidence of School Section boundaries—Construction of By-law.*—The question before the court was, whether the plaintiff's lot, 23 in the 8th concession of Thurlow, was within school section 16, a by-law defining the limits of sections in the township was proved, which declared the section to be composed among other lots of "50 acres of the east side of lot No. 16, all of No. 17, S.  $\frac{1}{2}$  of No. 18, all of 19, 20, 21, 22, 23 and 24" (not giving the concession), "excepting such portion of last mentioned lots as included in sections 18 and 19." Section 18 by the same by-law, was made to comprise parts of lots 16, 18, 20, 21 and 22, in the 8th concession; and section 19, the N.  $\frac{1}{2}$  of 24 in the same concession. *Held*, that the whole by-law taken together, sufficiently shewed the plaintiff's lot to be in section 16. *Held*, also, that the map prepared by the township clerk under section 49 of the Consolidated School Act, shewing the division of the township into sections, was admissible as evidence.—*The Chief Superintendent of Education for Upper Canada (now Ontario), Appellant; in re Shorey, plaintiff, and Thasher et al., defendants*, 30 Q. B. R. 504.

(10.) *If two Sections be united, in re-arranging the School Sections of a Township, an election of three Trustees is necessary.*—The Court of Common Pleas has decided the following case:—In the township of Harwich, county of Kent, prior to February, 1854, school section No. 1 consisted of what is now the town of Chatham and a part of the township. There was also a school section in operation, known as section No. 2 $\frac{1}{2}$ . In February, 1854, the township council passed a resolution dividing the township into sixteen school sections. No. 1 (of the new sections) was formed of that part of the township of Harwich which, together with the town of Chatham, had previously been No. 1, added to the whole of No. 2 $\frac{1}{2}$  as it existed previously. In January, 1855, an election for the new section No. 1 (as erected by the resolution in 1854) was held, at which one trustee only was elected; and the two other

trustees, elected the previous year for the then section, gave defendant the warrant under which he acted. *Held* by the court, that there should have been three trustees elected for section No. 1, at the election in January, and that the warrant signed by the other two was inoperative.—*McGregor v. Pratt, No. 1, Harwich, 7 C. P. R. 173.*

(11.) *Union of two or more Sections equivalent to the formation of a new one—Union Sections.*—The Court of Queen's Bench has also decided as follows:—That the union of two or more sections into one, is equivalent to the formation of a new section, and goes into operation (unless especially deferred to a fixed date) immediately after the action of the township council; and the same court has decided that the union of two or more school sections in the same township into one, may take place at any period of the year, and would then require a new election of trustees.—*Chief Superintendent, Appellant, in re Trustees No. 2, Moore v. William McRae, 12 Q. B. R. 525.* But the union of parts of adjoining townships, and an alteration in the boundaries of union sections, have no effect until after the 25th December following the act. In all cases, an altered or united section has no legal existence, as such, until after the date fixed for the coming into effect of such alteration or union.

(12.) *Dividing a School Section makes only one new Section.*—The Court of Queen's Bench has decided the following case:—On application of the resident inhabitants of a section, the municipality of a township, in 1853, passed a resolution to divide the section, by taking away a part to constitute a new section (but no by-law was passed until 1855, when one was adopted confirming the resolution). A meeting was called for the 16th January, 1854, to elect three new trustees for the section. In the meantime, on the 10th January, the ordinary annual meeting was held, and a dispute arose as to whether trustees should not then be elected for the ensuing year. Some thought not, and left the meeting; while others remained, and proceeded with the election. The local superintendent, being appealed to, declared the election illegal, considering the section had become a new section, and appointed another election to take place on the 16th, when the three defendants were appointed trustees. In January, 1855, the dispute was renewed, and elections held, so that there were two sets of trustees claiming the office. The first elected trustees, in 1854, abstained from acting; and the defendants imposed a rate, which the plaintiff resisted. *Held* by the court (affirming the preceding case of *The Chief Superintendent of Education, Appellant, from the Judge of the Division Court of the County of Lambton, in re Trustees, No. 2, Moore v. McRae, 12 Q. B. R. 525*), that the alteration did not constitute the section a new one; but the rate was legal, being imposed by trustees *de facto*, who had not been removed. *Quære*, whether such alteration could be made by resolution only. *Quære*, also, whether the decision of the local superintendent can be thus incidentally reviewed in an action to recover back the rate.—*Chief Superintendent of Education, Appellant, from the Judge of the Division Court of the County of Haldimand, in re Trustees, No 7, Oneida, Gill & Jackson et al., 14 Q. B. R. 119.*

(13.) *Alteration of School Section by County Council illegal.*—The Court of Common Pleas has decided the following case:—That, under the Public School Laws of the Province, the township council, and not the [county] council, have authority to sanction any alteration made in school [sections]. A proposed alteration being submitted by the [local] superintendent of schools to the [county] council, was held not to legalize the alteration thereby proposed.—*McFee v. Dunbar, 10 C. P. R. 94.*

(14.) *Township Councils cannot alter Union School Sections—By-law to levy School Rate after alteration also bad.*—The Court of Queen's Bench decided that the Municipality of Vespra and Sunnidale [before the passing of the Supplementary School Act of 1853] passed a by-law remodelling the school sections of those townships, which transferred to union school section No. 3, created by the by-law,



a part of Vespra, which had formerly belonged to Union School Section No. 4 of Vespra, Flos, Oro and Medonte. *Held* by the court, that this was beyond the power of the municipality, and that the by-law was bad. It appeared also that no notice had been given of the intended alteration, and that on this ground as well the by-law was illegal. *Held* also, that as union section No. 3 was illegally constituted, a by-law passed to raise money for a school-house erected there, was also bad; and the by-law in this case passed for that purpose was bad too, for omitting to comply with the requisites [under the 223rd section of the Municipal Institutions Act] of all by-laws creating a debt or contracting a loan.—*Hart and the Municipality of Vespra and Sunnidale*, 16 Q. B. R. 32.

(15.) *Formation and alteration of Union School Sections can only be made by Reeves and School Inspectors.*—The Court of Queen's Bench has decided that a township municipality may alter the boundaries of school sections within the township, by taking from one section and adding to another, without any previous request of the [assessed] freeholders and householders, and notwithstanding their disapprobation of the change provided that those effected by the alteration have due notice of the intention to make it. But the municipality has no power to alter the boundaries of a union school section consisting of parts of different townships—such power pertaining only to the reeve and school inspectors of the townships concerned.—*In re Ley v. Municipality of Clarke*, 18 Q. B. R. 433.

(16.) *By-laws for the alteration of School Sections can only be quashed within a reasonable time.*—The Court of Common Pleas in a case, where a great length of time (fourteen months) had elapsed before motion was made, refused to quash a by-law altering school sections, it being on its face legal, and having been acted upon, although it was doubtful whether sufficient notice had been given to interested parties.—*Hill v. Municipality of Tecumseth*, 6 C. P. R. 297.

(17.) *The Act determines when by-law takes effect—Lapse of time—Quashing.*—The Court of Common Pleas, on a motion to quash a by-law passed on the 1st of October, 1859, by defendants, doing away with school section No. 7, in the township of Darlington, and attaching a portion thereof to school section No. 6, and another part to No. 8. *Held*, 1st, that it is unnecessary that a by-law should state on its face that the alteration shall not go into effect till the 25th December following the passing thereof. 2nd, that no step having been taken to quash a by-law for a year and more from the passing thereof, the decision in *Hill v. Municipality of Tecumseth*, [6 C. P. R. 297,] was adhered to, and the motion refused on account of delay in making the application.—*Cotter v. Municipality of Darlington*, 11 C. P. R. 265.

(18.) *Notice to parties to be affected by the alteration of School Sections—Quashing.*—The Court of Queen's Bench has decided the following case:—Section forty of the Consolidated School Act enacts that a township council may alter the boundaries of a school section, in case it clearly appears that all parties to be affected by the proposed alteration having been duly notified of the intended step or application. In this case the only notice given was by the trustees of the section from which certain lots were taken by the alteration to the trustees of the section to which such lots were added—that being the notice which it was alleged had been customary in the township in similar cases. *Held* by the court insufficient, and the by-law making the alteration was quashed. The by-law was passed in February, 1870, but the clerk of the corporation did not notify the trustees of it until August. *Held*, also, that a motion to quash in M. T., 1870, was in time.—*Patterson and the Corporation of the Township of Hope*, 30 Q. B. R. 484.

(19.) *Alteration of School Section—Quashing a repealed By-law.*—The Court of Queen's Bench, in dealing again with the same case, decided as follows:—While an application to quash a by-law, No. 250, altering the boundaries of school sections 15 and 16, was pending, the corporation passed a by-law No. 268, to

remove doubts in regard to the former by-law and to confirm it, but so worded it as to leave it doubtful whether it was not in effect an independent by-law, defining the limits of these sections. The first by-law was quashed, and an application was then made to quash this last by-law. It appeared, on shewing cause, that it had been repealed. The court, under the circumstances, quashed the by-law, notwithstanding its repeal; for the repealing by-law being in effect, a by-law making an alteration in school sections, it could not take effect until the 25th December following, and it was stated that the trustee of section 15, intended to act under the by-law to be repealed.—*Patterson and the Corporation of the Township of Hope*, 31 Q. B. R. 360.

(20.) *Separation of School Section—Informal By-law—Delay in Moving to Quash.*—The Court of Queen's Bench has decided the following cases:—The corporation of the township of Bentinck, on the 7th December, 1867, passed a resolution, that a petition asked for a separation from school section 9, and to form a separate section consisting of certain lots, be granted, and a meeting be called to elect trustees. On the 3rd of October, 1868, they passed a by-law, enacting that this resolution should "remain confirmed, whole and entirely without abatement whatsoever, with the force and effect of a by-law of this corporation." The applicant in Michaelmas Term, 1868, moved to quash the by-law and resolution. It appeared that both had been passed after due notice, and after opposition by the applicant and others before the council, and that a school has been opened, and school taxes collected and expended in the section as separated. Held by the Court as to the resolution, that the delay in moving was a sufficient reason for refusing to interfere; and as to the by-law, (the merits being against the application on the affidavits) that though informal it was not substantially defective, and was not open to objection as being retroactive. The rule was therefore discharged, but without costs.—*Leddingham and the Corporation of the Township of Bentinck*, 29 Q. B. R. 206.

(21.) *By-Law to divide a School Section—Notices—Seal—Delay in moving.*—The Court of Queen's Bench has decided the following case:—App'ication to quash a by-law, passed on the 14th August, to divide a school section, on the ground that it was not under the seal of the corporation, and that it did not appear that all parties to be affected had been duly notified of the intended step or alteration. Upon the affidavits on both sides set out below, the court were satisfied that the seal had been duly affixed. As to the notice, the applicant swore he had received no notice of the intention to divide the section or pass the by-law, and believed the corporation gave none; and this was confirmed by the local superintendent. On the other hand, it was sworn that the Council, in February, received petitions, numerous signed, for the division, which they directed to stand over until their next meeting, on the 14th August, and instructed the clerk to give the necessary notices that such petition would then be considered, and that such notices had been seen in an hotel, in the post office, and in the school house. In reply the clerk denied receiving such instructions, and a person who had lived at the hotel, and the postmaster, swore that they had never seen the notices. The court refused to quash the by-law, for the affidavits only denied notice of intention to divide the section or pass the by-law, not of the application. The council had acted upon reasonable assurance that all parties had notice of such application, which no inhabitant of the section had denied knowledge of; and the objections being technical, should have been taken promptly, without allowing a term to elapse.—*Taylor and the Corporation of the Township of West Williams*, 30 Q. B. R. 337.

## CHAPTER VII.

## TOWNSHIP BOARD OF SCHOOL TRUSTEES.

**1.—When a Township School Board may be formed.**

Should "a majority of the *resident* householders and freeholders in two-thirds at least" of the school sections in the township desire that the school section boundaries be abolished and a township school board formed, the trustees or inspectors concerned should call the necessary school meeting in each section, for the purpose of giving expression to this desire. This can be done by resolution, which must be agreed to, not merely by a majority of ratepayers present at each school meeting, but by a majority of the ratepayers in each of at least two-thirds of the school sections of the township.

**2.—Who may form the Township School Board.**

The trustees in each of at least two-thirds of the school sections of a township (which desire to abolish school section boundaries and form a township school board), should transmit to their township council a copy of the resolution passed on the subject, and request the council to form the township into a school municipality, as authorised by law. This request may or may not be acceded to by the council, at its discretion.

NOTE.—Should the Council accede to the request of two-thirds of the sections to form a township school board, it should be done by-law, and not by resolution. See section 3, chapter ii. of this Second Part (ii).

**3.—When should the Formation of the Township School Board take effect.**

The by-law of the township council forming the township into a school municipality may take effect immediately, or at the end of the year, at the convenience or discretion of the parties concerned.

**4.—Composition and Designation of the Township School Board.**

The township school board must consist of five members, one to be elected in each ward of the township (if so divided); otherwise, all the ratepayers of the township may, at the first school election, vote for each of the five members of the board. The board, when elected, is to be designated "The Board of Public School Trustees of the Township of —, in the County of —."

**5.—Time of Electing the Township School Board.**

At the first election of the township school board, the election may be held immediately after the formation of the board, or after the

close of the year, on the second Wednesday of January, at 10 o'clock A.M., as in the case of other school elections. All subsequent elections of members of the board must be held on the second Wednesday in January of each year.

**6.—Who shall call the first Meeting for the Election of the Township School Board.**

The law requires the township council to appoint a person to call the first school meetings in a township, for the election of the school board. This person should be notified of his appointment and duty by the township clerk. Should the person thus appointed fail to call the meeting within twenty days after having been notified, the county inspector, and two ratepayers of the township may call it.

**7.—Powers and Obligations of the Township School Boards.**

The township school board, on its formation, succeeds at once to all the powers, rights, duties and obligations of each of the school section corporations which it has superseded; and in it is vested all the school property of every description in each of the several sections.

NOTE.—The other powers and duties of township school boards are identical with those enumerated in chapter xii. of this Second Part.

**8.—Advantages of a Township School Board.**

The advantages of a township school board may be briefly summarized as follows:

1. *Convenience.*—Under a township board system, all school section boundaries are abolished. Every ratepayer has, therefore, the right to send his children to any school most convenient to him in the township, as he prefers. Under the school section system, he can only send to the school of the section for the support of which he pays rates, although the school house of an adjoining school section may be more convenient to him than his own, in point of distance, and be taught by a more efficient teacher.

2. *Economy of time and money.*—Under a township school board, the local divisions would be consolidated and practically enlarged; and schools would be placed only at convenient distances from each other, and in such localities as required them. Thus, a township requiring under the section system fifteen or twenty schools, could have these schools so placed as to be able to do with one or two less in the aggregate. Thus, the expense of one or more schools could be saved, besides the expense of frequently collecting rates by trustees; and instead of requiring the time and attention of forty-five or sixty trustees, with their collectors, etc., to manage these schools, five could do it just as efficiently with the township treasurer and collector.

3. *Better Teachers.*—Under a township board, the schools can be classified, and each locality can claim and insist upon an equally

efficient teacher, according to the status of the school and the wants of the inhabitants.

4. *Educational inequalities removed.*—Under the school section system, hardly two schools in a township are equally efficient. Each school corporation has its own standard, which varies more or less in every section. Under a township board, with a single standard, aided by the supervision of the inspector, the existing inequalities could be removed, and each school brought up to a uniform standard of excellence.

5. *Competitive examinations*, instead of being the exception in a township, would be the rule under a township board. At present these most useful examinations are rarely held, and only as desired by individuals. As there are no means of removing defects in individual school management, should any be discovered by these examinations, they fail in producing any permanent salutary effect; but it would be otherwise under a township board, as part of its duty would be to ascertain the defects, which would be made apparent by a system of competitive examination of all the schools in a township at stated intervals, and remedy them.

NOTE.—The experience of various States in the American Union, which have adopted the township system, is greatly in favour of its successful working. The testimony invariably is, that, having once tried it, none wish to go back to the isolated, expensive and unsatisfactory system of school sections: "Once united under a township board, they stay so."

## CHAPTER VIII.

### POWER OF TOWNSHIP COUNCILS TO RAISE SCHOOL MONEYS.

#### 1.—Power of Councils in regard to providing School Moneys.

The "power" and "duty" of township councils, in regard to providing school moneys, may be considered under the following heads:

(1.) The discretionary power of councils to:

- (a.) Raise money at its pleasure (under the municipal law.)
- (b.) Raise money at its pleasure (under the school law.)
- (c.) Authorize trustees to borrow money (under the school Act.)

(2.) The duty of the council to:

- (d.) Raise money at the request of trustees (under the School law.

#### 2.—Discretionary Power to Raise Money (under the Municipal Law.)

The Municipal Institutions Act gives township councils discretionary power to pass by-laws: "For obtaining such real property as

may be required for the erection of public school houses thereon, and for other public school purposes (and for the disposal of the same when no longer required); and for providing for the establishment and support of public schools according to law." This clause of the Act provides for the—

- (1.) Purchase of school sites;
- (2.) Erection of school houses;
- (3.) Sale of school sites;
- (4.) Establishment and support of public schools according to law.

NOTE.—This clause of the Act limits the discretionary power of the council to the purchase and sale of school sites, and the erection of school houses "according to law." The Queen's Bench (18 Q. B. R., 227) has decided that the phrase "according to law," means "according to the provision of the school law."

### 3.—Discretionary Power to Raise Money (under the School Law.)

The school law authorizes a township council at its discretion to levy such sums as it judges expedient, for the following purposes:

- (1.) Purchase of "books for a township library, under such regulations as may be provided in that behalf."
- (2.) Procuring of a site, erection of a building, and support of a township model school, under the direction of the council.

NOTE.—A township library may be made available to the ratepayers of the municipality in two ways: (1.) By being kept at some central place, or places, in a township, and changed from time to time; or, (2.) it may be distributed to the several school sections, so as to rotate among them. In either case the council can thus provide fresh reading matter, at a small cost, to all the inhabitants of the township.

A township model school would be invaluable, if properly managed. It might show what could be done in every rural section in the way of classification, order, method, and efficiency.

### 4.—Imperative on Councils to raise Moneys required by Trustees.

Trustees of rural school sections have the power, with the consent of the ratepayers, as expressed at a public meeting, called for that purpose, either to raise such sums (under their own warrant) as they may require for any school purpose, or to apply to the township council to do so for them. Should the public meeting authorize the trustees to make an application to the council to raise the money required, the council has no option but to do so, and to levy the amount by assessment upon the ratable property of the section concerned. Should the council refuse to levy the rate, it can be compelled to do so by *mandamus*. (See Part I, chapter iii, section 13, page 34.)

NOTE.—A *mandamus* is a command issuing in the name of the sovereign from a superior court having jurisdiction, and is directed to some person, corporation, or inferior court, within the jurisdiction of such superior court, requiring him or it

to do some particular thing therein specified, which appertains to his office and duty, or to show cause why he has not done it. This writ was introduced to prevent disorders from a failure of justice; therefore it ought to be used upon all occasions where the law has established no specific remedy, and where, in justice and good government, there ought to be one.

**5.—Purposes for which the Council must levy Rates, if asked.**

Trustees have the power, with the consent of their constituents, to compel a township council to levy a rate upon the section for the following purposes, viz. :—

- (1.) Purchase of a school site ;
- (2.) Erection or rent of a school house ;
- (3.) Repairs to, and furniture for, a school house ;
- (4.) Purchase of maps, charts, and apparatus for the school ;
- (5.) Purchase of library, prize and text books ;
- (6.) Salary of the teacher, and other expenses of the School.

**6.—Limitation as to time of applying to the Township Council.**

Although the trustees themselves may levy a school rate upon the property of the section once a month, or twice (if necessary) yet they can only require a township council to do so once a year (except for the purchase of a site for the erection of a school house) ; and even then their application to the council for the levy of a rate for any purpose must be made to it "at or before its meeting in August."

**7.—Permission to Trustees to raise Money by Loan.**

Should the ratepayers of a school section desire the trustees to raise such sums as they (the trustees) may require for the erection or repairs of a school house, the trustees must apply to the township council for authority to do so (at any time during the year.) The council may exercise its discretion in the granting of this permission or not, at its pleasure. Should it give the trustees the authority asked for, it will be necessary for the council to pass a by-law on the subject providing for the—

- (1) Issue of township debentures for the amount of the trustees' loan.
- (2) Levying of an annual rate upon the section concerned for the repayment of the loan.

NOTE.—The Courts have decided that, in determining the period of these loans, the trustees have a voice in the matter as well as the township council : in fact, that the duration of the loan should be a matter of mutual consultation and arrangement between the parties concerned. The application for authority to raise money by loan may be made to the council at any time.

**8.—What the Council must do in granting leave to Trustees to borrow money.**

In case a township council should authorize trustees to borrow money, (as provided by the 35th section of the Consolidated School

Act,) it must itself provide for the levy in each year, on the "taxable property of the section concerned, a sufficient sum for the payment of the interest of the sum so borrowed, and a sum sufficient to pay off the principal *within ten years.*" (See decision of the Court of Queen's Bench on this subject on page 111.)

**9.—Shall the Municipal or School Corporation issue Debentures for the Loan?**

This is a debatable question. The School Law is silent on the subject; but the Courts have given a *quasi* recognition of the issue of debentures by trustees for this purpose. When it can be so arranged, the township council ought by by-law to authorize the issue by itself of the necessary debentures, especially as the courts have decided that township councils must "provide the means of securing repayment of the amount borrowed" by the trustees under its authority. This course is recommended for the following reasons:—

(1.) The Municipal Law specifically authorizes township councils to issue debentures.

(2.) Neither the School nor Municipal Law specifically or otherwise authorizes trustees to issue debentures or promissory notes. It is possible, however, that under the general Interpretations Act, they may have the power to do so. If so, it is only by construction or inference.

(3.) The law requires the township council to provide means to secure payment of the loan authorized by it.

(4.) The money annually raised by a township council to repay the loan comes directly into its possession, and not into that of the trustees.

(5.) The trustees, even if they issue a debenture, have no means of raising money to redeem it: in other words of paying their own debt.

(6.) The school trustee corporation, which has borrowed the money, may be extinguished at any time by a township council—(1) in the alteration of the boundaries of the school section, or (2) its absorption by other sections. If a union section, the adjoining townships councils may break it up, by detaching their portions of the union from the section.

(7.) By the issue of a debenture by a township council, the township itself can suffer no loss, as the section concerned must bear the whole expense.

(8.) As a general rule, a loan secured on the credit of a whole township (as pledged in the debenture) can be obtained on better terms than on the credit of a portion of the said township, as in the case of a school section, which is liable to be broken up.

(9.) The commercial value of a township debenture must, as a general rule, be intrinsically greater in the stock market than that of a trustee corporation for a portion of a township. Such a corporation may, at any time, be dissolved without its consent, but a township corporation cannot be so dissolved.



### 10.—Form in which Trustees should apply to the Township Council.

All applications from the trustees to the township councils to raise money, either by vote or by loan, should be in writing, and specific in its purport. These applications should distinctly state that the trustees have the authority of a public school meeting for making them; and should contain an estimate of the sums required by the trustees for the object specified, under the heads of the

- (1) Purchase or enlargement of a school site;
- (2) Erection of a school-house, or teacher's residence;
- (3) Repairs to the school-house, or teacher's residence;
- (4) Desks, seats, school furniture, apparatus, prizes, library, etc.;
- (5) Teacher's salary, and other expenses of the school, etc.

NOTE.—The trustees are not required to ask the consent of the ratepayers to the doing of any of the things mentioned in the estimate sent in to the council, or the providing for their purchase or payment. In these matters the trustees alone are to use their own unbiased judgment, and must exercise their own discretion, without restriction or control from a public meeting, or any ratepayer or ratepayers. But in all cases they must convene a meeting of the ratepayers to decide *how* the money required by them, for any or all of the purposes named, shall be raised. In case the meeting neglects or refuses to decide the question, or passes a resolution to forbid the levy of a rate, or otherwise to prevent the trustees from obtaining the necessary money, the trustees must exercise the inherent right which they possess to levy and collect a rate themselves upon the taxable property of the section for the sum required.

### 11.—Township Councils may Loan Money to Trustees.

The 276th section of the Municipal Institution Act (29-30 Vict. ch. 51), authorizes trustees, with the consent of the rate-payers "of their section," "obtained at a special meeting, duly called for that purpose," to borrow from a township or county council, from any surplus clergy reserve money set apart for educational purposes, such sums as they may require for the

- (1.) Purchase of a school site, or the
- (2.) Erection of a school-house; and for either of these purposes only.

NOTE.—By the wording of this 276th section, it appears that the trustees cannot borrow money from the township council for the purchase of a school site, *and* the erection of a school-house, but only for *either* purpose; and any sum or sums so borrowed shall be applied to that purpose, and to that only." They may, however, with the consent of the township council, borrow money from private parties for any lawful school purpose whatever.

### 12.—How the Consent of the Rate-payers to the Loan may be obtained.

The law authorizing the trustees to obtain a loan from a municipal council is indefinite, and is somewhat contradictory to the provisions of the School Act. It says: "Any board of school trustees may, with

the consent of the [rate-payers] of their school section, \* \* \* obtained at a special meeting duly called for that purpose, by by-law authorize the borrowing from any municipal corporation," etc. The intention of the law, no doubt is, that with the consent of the rate-payers, authorizing the loan, the trustees may pass a by-law, fixing the term (or period of the loan), and "rate of interest," which are to be set forth in the by-law. As it reads, however, the meeting of rate-payers is required to pass the by-law. The meeting of rate-payers and the trustees had, therefore, better both pass by-laws on the subject, in the manner suggested in the following note :—

NOTE.—The words "board of trustees" do not, in the School Law, apply to rural trustee corporations, but only to those in cities, towns and incorporated villages, nevertheless, the phrase, "their school section" makes the words, "board of trustees," in this case, apply to rural school trustees. Further the plain grammatical construction of the section quoted would show that the public meeting should pass the by-law. But it was clearly never the intention of the Act to declare that an irresponsible public meeting, (not being a corporate body or having a corporate seal), should pass a "by-law." The "by-law" had, however, better be submitted by the trustees and passed by the public meeting (in the name of the meeting and trustees) and afterwards verified by the signatures of the trustees and the corporate seal of the section. (See note to (F.) of section 8, chap. I, of the first part of these Lectures, page 12.)

### 13.—Payment to Trustees of Uncollected Non-resident School Taxes.

The law declares that, "if the collectors appointed by the trustees of any school section, be unable to collect that portion of any school rate which has been charged on any parcel of land liable to assessment, by reason of their being no person resident thereon, or no goods and chattels to distraint, the trustees shall make a return to the clerk of the municipality, before the end of the then current year, of all such parcels of land and the uncollected rates thereon, and the clerk shall make a return to the county treasurer of all such lands and the arrears of school rates thereon, and such arrears shall be collected and accounted for by such treasurer in the same manner as the arrears of other taxes;\* and the township, village, town or city in which such school section is situate, shall make up the deficiency arising from uncollected rates on lands liable to assessment, out of the general funds of the municipality."

NOTE.—The whole question of the collection of non-residents' school rates, etc., is fully discussed in Chap. IV. of the first part of these Lectures, pages 34-37.

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\*The Assessment Act, (29-30 Vic. ch. 53,) section 116, requires "the treasurer of each local municipality," within fourteen days after the time appointed for the return and final settlement of the collector's roll, and before the 8th day of April in every year, to furnish the county treasurer, with a statement of all arrears of school rates directed in the said collector's roll, or by school trustees to be collected; said return to contain a description of the lots, etc., a statement of unpaid arrears of taxes, if any, on lands of non-residents, etc.

## CHAPTER IX.

## DECISIONS OF THE SUPERIOR COURTS IN REGARD TO TOWNSHIP RATES.

(1.) *In replevy* [see note (\*) on page 53], *the defendant must show that the consent of the public meeting was obtained.*—The Court of Common Pleas has decided that a party avowing [*i.e.* the collector, in a case of replevy, justifying or maintaining the act of distraint] for distress in the levying of a school rate, the by-law for sanctioning such levy, which requires to be passed upon the request or with the consent of certain persons, must show such request to have been made, or such concurrence or consent obtained. *Held*, also, that upon such avowry, the avowant must set forth the conditions precedent required by law to be complied with before the passing a by-law to levy a rate for school purposes.—*Haacke v. Marr, School Section No. 11, Markham*, 8 C. P. R. 441.

(2.) *School Trustees' order necessary for School Money collected by Township.*—The same court has also held, that a demand or order from a majority of the school trustees of a school section, is necessary to sustain an action for money collected under a by-law passed under the authority of [the *thirty-fourth* section of the Consolidated School Act.]—*Trustees No. 3, Caledon v. Corporation of the Township of Caledon*, 12 C. P. R. 301.

(3.) *How the desire of the Ratepayers must be expressed—By-law to levy Rate for School House.*—The Court of Queen's Bench has also decided the following case: The Scarborough township council, by resolution, agreed to lend to the school trustees, out of the clergy reserve fund, a sufficient sum to build a school house, taking as security their debentures. This arrangement was made by the trustees, without any reference to the ratepayers; but at the next annual school meeting, at which the applicant was present, the matter was discussed, and the contract and plans for the building examined. The council subsequently, on the requisition of the trustees, passed a by-law to raise a sum for school purposes, which was required to pay the interest of these debentures, and to redeem one of them. The applicant moved to quash this by-law, objecting that the loan effected by the trustees without the consent of the rate-payers was illegal; but it appeared that the school house had been finished and occupied, many of the ratepayers swore that they were satisfied with what had been done, and the affidavits were contradictory as to how far the applicant had acquiesced in the proceedings. The by-law not being illegal on the face of it, the court under these circumstances refused to interfere.—*Quare*, whether under the Consolidated Public School Act, chap. 64, section *twenty-seven*, sub-section *ten*, and section *thirty-four*, the concurrence of the freeholders and householders required to enable the trustees to call upon the council to levy money for the purchase of a school site, &c., can be expressed at the annual school meeting, without notice that the question will then be brought up.—*In re Taber and the Corporation of the Township of Scarborough*, 20 Q. B. R. 549.

(4.) *Township Council cannot raise School Rate for County purposes.*—The Court of Queen's Bench has decided as follows: A township by-law was quashed in so much as related to the raising of a sum of money, to defray the demands of the county council on the township, and as an equivalent to the legislative school grant; it not appearing in the face of the by-law that it was directed to the purpose of meeting a deficiency. It follows therefore that a township council has not power to pass a rate in aid of any county rate as the [Municipal Act] authorises the county councils to pass by-laws to raise money for county purposes, and the township council for township purposes; and the [*fortieth*] section of the Consoli-

dated School Act, expressly makes it a duty of the county (and not the township) council to cause to be levied each year upon the several townships of the county, such sums of money as shall at least be equal, clear of all charges of collection to the amount of school money apportioned to the several townships out of the government grant.—*Fletcher v. Municipality of Euphrasia, &c.*, 13 Q. B. R. 129.

(5.) *Township Council cannot interfere with the established School System.*—The Court of Queen's Bench has decided the following case: The by-law of the 1st of October, 1855, enacted that for the purpose of remedying unequal taxation for the support of common schools, there should annually be appropriated out of the general funds of the township, so much as to the municipality for the time being might seem reasonable, not being more than would be sufficient, if added to the common school fund for the year, and equally divided amongst the sections, to pay the average wages of a third-class teacher for twelve months; that on or before the second Wednesday in January in each year, the treasurer should apportion such money according to the time that a school should have been in operation in each section under a legally qualified teacher; and that the sum assigned to each section should be paid on the order of the majority of the trustees, on certain conditions mentioned in the by-law. \* \* \* Chief Justice Robinson delivered the following judgment of the court: With respect to the by-law passed in 1855, if it had been intended other than to appropriate a sum for that year, out of the funds of the township to be applied to the support of common schools, we should not have interfered so long after its operation had been wholly spent, and apparently acquiesced in; but it is, on the face of it, permanent in its character, and it seems to have been passed altogether in disregard of the provision of the Common School Act. \* \* \* It is plain, from the recital in this by-law, that it professes to substitute a system devised by the municipal council for that laid down by the legislature, for the support of common schools. It is evident that that by-law was not intended to co-exist with the method of raising funds in the township laid down in the School Act. \* \* \* We think we are bound to say that it is wholly beyond the authority given to the township councils, and that we cannot forbear quashing a by-law which is not shown to have been repealed, and which professes to establish a system for raising money *annually* for the support of common schools, in a manner decidedly at variance with the statutes of the province, and without that reference to the judgment of the school trustees, and to the wishes of the inhabitants, which the legislature intends shall form part of the system. However convenient or good the system provided by the by-law might prove in itself, the township council had no authority to adopt it. We therefore make absolute the rule for quashing that by-law. *In re Dunlop and the Township of Douro*, 18 Q. B. R. 227.

(6.) *Municipal School Rates must be paid to the Municipal Treasurer.*—In a suit on a bond made by a collector under a by-law of the Huron District Council, to collect the sum of \$100 within school section, and to build a school house therein, it was *held*, that all moneys collected for the erection of school houses under any by-law of the municipal council, were payable, not to the superintendent of schools but, to the municipal treasurer, who alone, under the late Act, was authorized to take security from collectors for the payment of moneys collected for public purposes. *Brown v. Styles, et al*, 2 C. P. R., 346.

(7.) *School Rates must be levied equally on all taxable property.*—The Court of Common Pleas has decided, that when the municipal council of a township, intending to act under the thirty-fifth section of the Consolidated School Act, levied a rate for common school purposes upon the resident inhabitants of a school section only, it was *held* that, under the School Act as well as the Municipal and Assessment Acts, the by-law was invalid, because the rate should be levied on all taxable property, whether real or personal, of the inhabitants, resident as well as

non-resident.—*In re De la Haye v. Municipality of the Gore of Toronto*, 2 C. P. R. 317. (See decision *In re De la Haye, &c.*, 3 C. P. R. 23, below. See also decision as to rates in city of Ottawa, and other decisions.

(8.) *Maximum rate of interest to be paid by Municipal Councils.*—The Court of Queen's Bench has decided that municipal corporations cannot, by by-law, provide for money at a rate of interest exceeding that authorized by the statute.—*Wilson v. Municipality of the County of Elgin*, 13 Q. B. R. 129.

(9.) *Authority to raise a rate to pay off a loan for School section purposes.*—The Court of Common Pleas has decided as follows:—A by-law of a township council authorizing the levy of certain rates in a school section having been quashed, the council then, without a second school section meeting having been called, passed another by-law for the same purpose, it was held by the Court: 1. That the discretion to raise the sum within any number of years, not more than ten, rests as much with the council as with the school meeting or trustees. 2. That a second meeting of the inhabitants, after the former by-law had been quashed, was not necessary. 3. That the rate was not declared on the property assessed in a previous year; but only the amount to be raised was determined by reference to the assessed value of property in that year. 4. That the rate not being complained of as excessive, its being calculated to realize more than the precise sum required, did not render the by-law invalid. 5. That the duty imposed on the clerk in making out the assessment list of the section, in accordance with the township by-law, was in accordance with the statute. 6. That a proviso of the by-law sanctioning receipts, *pro tanto*, given to those who had paid under the invalid by-law, did not render the second by-law void,—because such parties, although entitled to restitution, would have to pay *de novo*.—*In re De la Haye v. Municipality of Toronto*, 3 C. P. R. 23.

10. *Loan by Township to School Section.*—The Queen's Bench has decided the following case:—A township corporation passed a by-law, reciting that, by the 35th section of the Consolidated School Law, authority is given to township councils to collect by special rate in school sections that had become indebted to them by loan, and that a certain section had borrowed of the municipality four hundred dollars (\$400), due at different days; and enacting that there should be levied in the section by the collector of the municipality the sum of two hundred and sixty-two dollars (\$262), to meet a certain portion of said loan. This by-law was quashed, for (among other objections) the statute referred to gives no such authority: and if it did, it requires provision to be made for levying the whole sum borrowed. The money was said to have been lent out of the Clergy Reserve funds of the township, and 27 Vic. cap. 19, was referred to as authorizing it, but the statute was passed after the loan. The Legislature of the Province very wisely enacted and made it compulsory (by the thirty-fifth section of the Consolidated School Act) upon township councils, (in the event of their granting authority to school sections to borrow money for any of the purposes referred to), that they should also provide the means for securing re-payment of the amount borrowed, by the levying in each year, through their own collector, by a special rate on the taxable property in the school section, sums sufficient to pay off the interest and principal within ten years.—*In re Doherty v. The Township of Toronto*, 25 Q. B. R. 409.

(11.) *Township Council entitled to notice of action.*—A municipal council of a township is entitled to one month's notice of action under the statutes 14 and 15 Vic., Ch. 54, and 12 Vic., Ch. 10.—*Barclay v. The Municipality of Darlington*. 5 C. P. R. 432. See also 5 C. P. R., 141 and 269, 6 C. P. R., 334 and 9 C. P. R., 423.

## CHAPTER X.

### CITY, TOWN, AND INCORPORATED VILLAGE COUNCILS.

#### 1. Powers and Duties of City, Town, and Village Councils.

The law requires city, town and incorporated village councils to:—

1. Raise by assessment the equivalent to the Legislative School Grant.
2. Raise such sums of money, and in such manner, as may be required by Boards of School Trustees, as per their estimate laid before the Council.
3. Take security from all parties entrusted with school moneys.
4. Have the school accounts of the municipality audited, and a return of them made to the Chief Superintendent.
5. Report municipal school proceedings to the Chief Superintendent of Education through their clerks.

#### 2. Councils to raise Moneys as per Trustees' Estimate.

The law authorizes and requires boards of trustees in cities, towns and incorporated villages "to prepare from time to time, and lay before the municipal council of the city, town or village, an estimate of the sums which they think requisite :

- "(a) For paying the whole or part of the salaries of teachers ;
  - "(b) For purchasing or renting school premises ;
  - "(c) For building, renting, repairing, warming, furnishing, and keeping in order the school houses and their appendages and grounds ;
  - "(d) For procuring suitable apparatus and text-books for the schools ;
  - "(e) For the establishment and maintenance of school libraries ;
- and
- "(f) For all other necessary expenses of the schools under their charge.

"And the council of the city, town, or village, shall provide such sums in the manner desired by the said board of school trustees."

#### 3. Councils have no option but must raise money required.

From this latter part of the preceding section it will be seen that the municipal councils of cities, towns, and incorporated villages have no option, but must annually raise such sums as the school boards "think requisite" for defraying all the expenses of the school for the year. The council must raise it also "in the manner desired by the board of trustees," whether by rate or loan.

NOTE.—Two things should be observed in regard to this matter, viz. :—

1. An "estimate" duly prepared should be sent to the municipal council with a request in writing for the amount required; indicating at the same time "the manner" in which the board "desires" the money to be raised by the council.
2. Whether the council (in case the money is required to be raised by loan) submits the by-law on the subject for the approval of the ratepayers or not (under the municipal act) it is nevertheless required by the school law to provide the moneys asked for by estimate, "in the manner desired by the trustees," whatever may be the decision of the electors on the by-law submitted to them. (See note to Sec. 3 of Chap. xvi.)

## CHAPTER XI.

### DECISIONS OF THE SUPERIOR COURTS IN REGARD TO CITY, TOWN, AND VILLAGE COUNCILS.

(1.) *Payment by the Town Council of a part of the Trustees' Estimate a recognition of the whole.*—The Court of Queen's Bench has decided that when an estimate of the sum required for school purposes was sent to the municipal council, by the board of school trustees, and the council recognized the presentation of such estimate by paying a portion of the amount, and submitted to the court their reasons for refusing to pay the balance: *Held*, by the court, that by such recognition of the trustees' estimate, they were precluded from pleading that it had not been laid before them as the law required.—*In re Board of School Trustees v. Municipality of Brockville.* 9 Q. B. R. 302.

(2.) *A resolution of a Board of School Trustees is not the estimate required by law.*—The Court of Common Pleas has decided that the communication by a board of school trustees to the municipal council of a town, of a resolution of the board, that the chairman do order the town council to furnish the board with a sum of money immediately, for the purpose of purchasing a site and erecting a school house—a copy of which resolution was sent to the town council—is not a compliance with the *eleventh* clause of the *twenty-ninth* section of the Consolidated School Act, requiring the board to prepare an *estimate* of the sums it may require; and consequently does not render the town council liable to be compelled to pay the amount by mandamus.—*In re Board of School Trustees v. Municipality of Port Hope.* 4 C. P. R. 418.

(3.) *A City Council has no discretion as to raising the sum required by the Board of School Trustees.*—The Court of Queen's Bench granted a mandamus to compel a city council to levy a sum required for school purposes for the year, according to the estimate furnished to them by the school trustees. It appeared in this case that the corporation having received the estimate did not object to it, but passed a by-law to provide the sum required, which they afterwards repealed, and substituted another, imposing a smaller and insufficient rate; and no reason was given for refusing to provide the sum called for.—*School Trustees of the City of Toronto v. The Corporation of the City.* 20 Q. B. R. 302.

(4.) *City and Town Councils required to raise the amount desired by the Board of School Trustees.*—The Court of Queen's Bench has decided the following case: The *eleventh* clause of the *seventy-ninth* section of the Consolidated School Act which requires municipal corporations to provide the sums required by school trustees "in the manner desired" by them, authorizes the trustees to direct at what time the money shall be paid, but not how it is to be procured. The court

therefore refused a mandamus to levy a rate, but granted it to provide the money as desired. Where it appeared on affidavit that steps had been taken to provide the sum required, a mandamus nisi was nevertheless granted. They declined, on the motion for the writ, to consider objections to certain items in the trustees estimate, as these could form no reason for withholding the whole.—*School Trustees of the City of Toronto v. The Corporation of the City*. 23 Q. B. R. 203.

(5.) *A vote of the school ratepayers not necessary in cities, towns, and villages, as in school sections.*—A vote of the ratepayers is not necessary in cities, towns, and villages—although it is in school sections—to authorize an application to the town council, or a rate by the board.—*In re Board of School Trustees v. Municipality of Port Hope*. 4 C. P. R. 418.

(6.) *Ward School Assessments of a city or town illegal.*—The court of Queen's Bench has decided, that an assessment for school purposes must be levied equally upon the ratepayers of the municipality, in proportion to their ratable property, and cannot be levied by an unequal rate in the different wards of such municipality.—*In re Scott v. Municipality of Ottawa*. 13 Q. B. R. 346. (See decision of the Court of Common Pleas, No. 7, section 14, chapter ix., page 110.)

(7.) *Order on Treasurer must precede an application for writ of mandamus to compel payment.*—The Court of Queen's Bench has decided the following case: The board of school trustees of a village applied to the village municipality to levy a sum of money required to pay for a school site which they had contracted to purchase. The municipality refused to do so, and the board applied for a mandamus. It did not appear that the trustees had appointed a secretary-treasurer. Held, by the court, that the board should first have given an order, to the person from whom they had agreed to purchase, upon the treasurer of the municipality.—*In re Board of School Trustees v. Municipality of Galt*. 13 Q. B. R. 511.

(8.) *Demand and refusal must be shown before mandamus would issue against a City or Town Council to levy school rate.*—The Court of Queen's Bench refused a mandamus against a municipality to levy a rate for school purposes, because the demand and refusal of a certain sum was not sufficiently shewn. *School Trustees of Collingwood v. The Municipality of Collingwood*. 17 Q. B. R. 133.

(9.) *Right of action against a City or Town Council does not belong to the teacher.*—The Court of Queen's Bench has decided: That an action would not lie against a municipal corporation by a school teacher, upon an order made upon and accepted by the treasurer in the plaintiff's favour for his salary, the treasurer having no power to bind the corporation by such acceptance. Held, also, that the teacher could not maintain an action against the corporation for refusing to levy a rate for his salary, upon an estimate furnished to them for that purpose by the trustees.—*Smith v. The Corporation of the Village of Collingwood*. 19 Q. B. R. 259.

(10.) *Treasurer must honour trustees' orders for school moneys.*—The Court of Queen's Bench has decided: That portion of the rate which, by the enactment of law, goes into the hands of the treasurer, is subject to the order of the trustees. He may not have received the money, or he may refuse to pay their order, but in neither case can they be liable to an action for not paying the money. They are public officers, who have only to discharge their proper duty. If they refused to make an order, a mandamus would lie against them, or perhaps a special action for not making the order; but not an action for the money, for that is not in their hands. If the treasurer fails in his duty he is liable to indictment, and might be found liable also to a remedy by action.—*Quin v. Trustees, No. 4, Seymour*. 7 Q. B. R. 130.

(11.) *Mandamus to corporation to provide money for school trustees—Insufficiency of trustees' estimate and demand.*—On application for a mandamus to compel a municipal corporation to provide \$3,500 for a board of school trustees, it



appeared that on the 15th of March the trustees wrote to the corporation, informing them that they had passed a resolution on the 12th inst., directing their chairman and secretary "to wait on the council at its next meeting and submit an estimate for \$3,500, for the purpose of building a brick school house, the same to be procured by the 10th of April," and requesting the council to provide said amount in accordance with the estimate. On the same day, after receiving the letter, the corporation notified the trustees that they were unable to comply with the demand; and on the 13th of April an order upon the treasurer of the council by the chairman of the board of school trustees for the \$3,500 was presented, and payment refused. *Held*, that the statute which requires the trustees to prepare and lay before the council an estimate, had not been complied with; and that the demand for payment within three weeks, without showing that the corporation had funds in hand available for the purpose, was not reasonable. The mandamus therefore was refused.—*In the matter of the School Trustees of Mount Forest v. The Corporation of Mount Forest*. 29 Q. B. R. 422.

(12.) *Application for mandamus to levy rate—Form of estimate—Waiver of its insufficiency—Proof of by-laws.*—The school trustees of a town applied for a mandamus to the corporation to pay over all monies collected for the erection of school buildings under a by-law of the 21st of August, and to collect the sum remaining; or to provide for the trustees \$1,000. It appeared that the trustees had passed a resolution to apply to the corporation for \$3,000 for school buildings, upon which a by-law was passed to raise that sum. This by-law was repealed and another passed to raise the necessary sum, but it was defective. *Held*, that though the resolution of the trustees was not a sufficient estimate, the objection was cured by the corporation having passed a by-law in pursuance of it; but that as that by-law was invalid, the court could not enforce anything arising under it by mandamus. *Held*, also, that the estimate being insufficient a mandamus could not be granted to provide the sum mentioned in it, as asked by the second alternative of the application. Two copies of by-laws put in not being proved under section 193 of the Municipal Act could not be read, but the same by-laws were set out at length in affidavits filed, the deponent swearing that a by-law was passed by the town council "in words following," which was held sufficient for the purposes this application. Sec. 193 provides for the proof of by-laws in general cases, sec. 198 for the special case of an application to quash.—*In re the Board of School Trustees of the Town of Sandwich v. The Corporation of Sandwich*. 23 Q. B. R. 639.

(13.) *School assessment in a town—Authority of collector—Individual ratepayer cannot object to estimate—Form of roll used.*—A board of school trustees in a town passed a resolution stating the sum required for school purposes, of which their treasurer gave notice to the town clerk, verbally or in writing, but not under the corporate seal. The corporation, however, made no objection, and acted upon it as an estimate. *Held*, that though it would have been insufficient on application to compel the town to levy the money, yet an individual ratepayer could not object. Sec. 24 of the Consolidated Assessment Act, ch. 55, applies to the assessor's roll only, not the collector's. Defendant was duly appointed collector of the municipality for the years 1865 and 1866. *Held*, following *Newberry v. Stephens*, 16 Q. B. R. 65, *Chief Superintendent of Education v. Farrell*, 21 Q. B. R. 441, and *McBride v. Gardham*, 8 C. P. 296, that he had authority in 1866 to distrain for the taxes of 1865 upon the owner of premises duly assessed. Defendant held two rolls, each headed "Collector's Roll for the Town of Belleville," one being also headed "Town Purposes," the other "School Purposes." In the first, the column headed "Town or Village Rate" contained nothing, but in that headed "Total Taxes Amount," \$40 was inserted. In the other that column had nothing, but \$16 was in the column headed "General School Rate." *Held*, insufficient, for there was nothing to show for what purpose the sum not specified to be for school rate was charged. *Spry v. McKenzie*, 18 U. C. R. 161, distinguished. The omission to set down the name in full of the person assessed was treated as immaterial.—*Coleman v. Kerr*. 27 Q. B. R. 5.

(14.) *Joint board of grammar and public school trustees—Are a corporation liable for contracts.*—A joint board of grammar and public school trustees are a corporate body, capable of contracting and being sued, though the separate corporate existence of each continues; and they were held liable, therefore, for work done upon a contract made by them with the plaintiff for an addition to the school house.—*School Trustees v. Farrell*, 27 U. C. R. 321, (below) commented upon. *Oliver v. The Union Board of School Trustees of Ingersoll*. 29 Q. B. R. 409.

(15.) *Receipt by municipal treasurer for school money renders him liable for it in the Bank—Right of action lies against him for it.*—There being in a joint board of grammar and public school trustees, on the 7th of July, the chairman of the board of grammar school trustees received a circular from the Education Office, advising him of the payment of \$202 for that school. This money had been paid into the Bank of Upper Canada, at Toronto, as agents for defendant, the Treasurer of the County, prior to its suspension, and the bank sent him an order on their Hamilton branch, which was not presented before the bank stopped payment in September. It was not asked for until the 25th of September, when the treasurer of the joint board called for it. On the 26th, defendant wrote to the treasurer of the joint board enclosing this draft, saying that it had been received by him for the grammar school, and had been lying in his office for their demand, as usual, since the 11th of July. The plaintiffs having refused to accept the draft, *Held*, 1. That an action for this money would lie against defendant as treasurer, it having been paid to his agents at Toronto, and he having admitted its receipt for the special purpose. 2. That as the board of grammar school trustees, notwithstanding the union, still existed as a separate corporation, the action should have been by them, not by the joint board. 3. If the action had been rightly brought, defendant would have been liable for the loss on the draft, for the payment was made to his agents at Toronto in money.—*The Joint Board of Grammar and Common School Trustees of the Village of Caledonia v. Farrell*. 27 Q. B. R. 321.

## CHAPTER XII.

### ELECTION OF BOARDS OF PUBLIC SCHOOL TRUSTEES IN CITIES, TOWNS, AND INCORPORATED VILLAGES.

#### 1.—Day and hour for the Election of Boards of Public School Trustees.

The election of members of public school trustee board, in cities, towns and incorporated villages, must be held on the second Wednesday in January of each year, commencing at the hour of nine o'clock a. m., and closing not later than five o'clock p. m.

[NOTE.—The hour for holding the school election in cities, towns and incorporated villages is different from that at which it is held in rural sections. In this respect it follows the municipal instead of the school law. The object, doubtless, was to facilitate the settlement, by the county judge, of school election complaints, by assimilating the school law to that governing the municipal elections.]

**2.—How long shall the School Election last?**

The election shall last for one day only. It shall commence at nine o'clock in the forenoon, and close at five o'clock in the afternoon, after which hour no vote shall be received for any candidate.

**3.—Where shall the Public School Trustees Election be held?**

The election of public school trustees in cities and towns, divided into wards, shall be held "at the place of the last municipal elections," and in towns and incorporated villages not divided into wards, it shall be held "at the place of the then last annual election of councillors."

[NOTE.—In case the election of a public school trustee (on complaint being made to him) be set aside by a county judge, the law authorizes him "to appoint the time and place of holding a new election. (See sections 6 & 7 of this chapter.)

**4.—Who shall preside at a Public School Trustee Election?**

Each public school trustee election in cities towns and incorporated villages, shall be held under the direction "of the returning officer" of the municipality concerned; "but in case of the default of such returning officer, then under the direction of such person as the electors present may choose."

**5.—How shall a Public School Trustee Election be conducted?**

The school law declares that "the school elections in cities and towns shall be conducted in the [same] manner as an ordinary municipal ward election."

NOTE.—The "manner" thus referred to is defined in the municipal law as follows:—

(1.) The returning officer shall preside, or, in his absence, a person chosen by the electors. He shall enter in a poll book, in separate columns, the names of the candidates proposed, and shall, opposite to such columns, write the names of the electors offering to vote at the election. He shall also in each column, in which is entered the name of a candidate voted for by an elector, set the figure "1" opposite the voter's name.

(2.) The returning officer shall, at the close of the poll, add up the number of votes set down for each candidate for the office of trustee, and shall publicly declare the same, beginning with the candidate having the greatest number of votes, and so on with the others; and shall thereupon publicly declare elected the candidate or candidates respectively who shall stand highest on the poll.

(3.) In case two or more candidates have an equal number of votes, the returning officer shall give a vote for one or more of such candidates, as the case may be, so as to decide the election; and, except in such case, no returning officer shall vote at any election held by him.

(4.) The returning officer shall, on the day after the close of the election return the poll book to the clerk or secretary of the public school board. He shall also append thereto his solemn declaration that the poll book contains a true statement of the poll, and transmit his certificate for the persons (naming them) who have been duly elected.

### **6.—Who shall call Meetings for the Election of Public School Trustees?**

(1.) On the incorporation of towns and incorporated villages, not divided into wards, the first meeting for the election of public school trustees shall be called by the "returning officer appointed to hold the first municipal election in such town or village."

NOTE.—For boundaries of newly incorporated villages. (See sec. 5, ch. iv.)

(2.) In case of the "neglect for one month" of the returning officer to call this first school meeting for the election of six trustees, in a town or village not divided into wards, "any two freeholders in such town or village may call a meeting for such purpose."

(3.) The annual meeting for the election of public school trustees in cities, towns and incorporated villages shall be called by the public school board.

(4.) A county judge who, on appeal, sets aside a public school trustee election, in required by law to "appoint a time and place of holding a new election."

NOTE.—The county judge is merely required to "appoint the time and place of holding a new election," in case he sets aside an election, against which an appeal had been made to him. He may either call the meeting himself, or direct the trustees to do so. (See section 13 of this chapter, next page.)

### **7.—When must Public School Meetings be held?**

(1.) The annual school meeting must be held on the second Wednesday of January of each year, at nine o'clock a.m.

(2.) A special school meeting may be held at any time fixed upon by the trustees at their discretion.

(3.) The county judge is authorized to "appoint the *time* and place of holding a new election, when he sets aside one against which a complaint has been made to him.

### **8.—For what purpose can School Meetings be called?**

Public school trustees in cities, towns and incorporated villages, are authorized to call school meetings for—

(1.) The annual election of school trustees.

(2.) The election of a public school trustee or trustees, to fill a vacancy or vacancies in the school corporation, which may be caused at any time by (1) death, (2) resignation, (3) removal from the municipality, (4) void election, (5) refusal to act or (6) other cause. (See section 20 of this chapter, page 121.)

NOTE.—See "Note" to the 6th section above.

(3.) "Any other school purpose which they may think proper."

NOTE.—The board of trustees is *not required* to call a public school meeting, or otherwise consult their constituents in regard to the selection of a public school site, the erection of a school house, or the raising of moneys for the support of the schools. They may do so, however, at their pleasure. But the resolutions passed

at such a meeting are not binding upon the trustees. They would be valuable only as an expression of opinion on the part of the ratepayers. Trustees are not required to submit their annual report to a public school meeting, but they are required to publish it in the local newspaper. (See Section 8, of chapter xvi.)

**9.—What notice must be given in calling School Meetings?**

In all cases six days notice, in at least three public places in each ward, town or village, must be given of each public school meeting, whether it be called by a returning officer (see section 6 of this chapter) or by the board of trustees, or by order of a county judge, in case an election be set aside by him.

**10.—Who has a right to vote at School Meetings?**

Any assessed freeholder or householder of a city, town or incorporated village, who has paid his previous year's school tax in such municipality, whether a resident or non-resident, has a right to vote at any lawful school meetings in the ward or municipality in which he pays rates; but supporters of separate schools have no vote.

**11.—Test of Right to vote, in case objection be made?**

"In case an objection be made to the right of any person to vote at an election in any city, town or village, or upon any other subject connected with school purposes therein, the returning officer presiding at the election shall require the person whose right of voting is objected to, to make the following declaration:

"I do declare and affirm that I have been rated on the assessment roll of this city (town or village, *as the case may be*), as a freeholder (or householder, *as the case may be*), and that I have paid a public school tax in this ward (town or village, *as the case may be*), within the last *twelve* month, and that I am legally qualified to vote at this election."

"Whereupon the person making such declaration shall be permitted to vote."

**12.—Penalty for making a False Declaration of a Right to Vote.**

"If any person wilfully makes a false declaration of his right to vote, he shall be guilty of a misdemeanor, and upon conviction, upon complaint of any other person, shall be punishable by fine and imprisonment, at the discretion of the Court of Quarter Sessions; or by a penalty of not less than *five* dollars, or more than *ten* dollars, to be sued for and recovered with costs before a justice of the peace, by the school trustees of the municipality for its use."

**13.—Mode of Proceeding in Contested Elections in Cities, Towns and Villages.**

"The judge of the county court shall, within *twenty* days after the election of a common school trustee in any city, town, or incorporated

village within his county, receive and investigate any complaint respecting the mode of conducting the election, and confirm it or set it aside, and appoint the time and place of holding a new election, as he may judge right." (See clause (4) of sec. 6 of this chap. p. 118)

**14.—Penalty on Returning Officer for wrong doing at School Elections.**

"If the returning officer at any election of a public school trustee be convicted before the county judge, of disregarding the requirements of the law, or acting partially in the execution of his office, he shall be fined a sum of not less than *twenty* dollars, nor more than *one hundred* dollars, at the discretion of such county judge."

**15.—Costs of Contested Public School Elections.**

"The expenses of any school election contest shall be paid by the parties concerned in it, as may be decided by the county judge."

**16.—Number of Trustees in each School Board.**

The number of public school trustees to be elected in a municipality at each first election is as follows :—

- (1.) Where wards exist : two for each ward.
- (2.) Where no wards exist : six for the municipality.

Number of public school trustees to be elected annually :

- (1.) Where wards exist : one for each ward.
- (2.) Where no wards exist : two for the municipality.

**17.—How shall Retirement of each Trustee be determined ?**

After the first election of a board of trustees they shall, at their first board meeting, determine by lot how they shall individually retire from office. The number to retire in each case is as follows :

- (1.) Where wards exist : one annually.
- (2.) Where no wards exist : two annually—the six trustees on the board having first been divided by lot into three classes of two each.

NOTE.—Although a trustee, as above explained, retires from office on the second Wednesday of January in each year, yet, in case of a failure, from any cause, to elect his successor, he holds office and legally acts as trustee until such successor is elected. The same rule applies in case of the resignation or removal of a trustee.

**18.—Who may be a Public School Trustee ?**

- (1.) Any "fit and proper person," resident or non-resident, rate-payer or not.
- (2.) (After a first election) any retiring trustee.

**19.—Who may not be a Public School Trustee ?**

The law excludes the following persons from the office of public school trustee :

- (1.) An inspector of public schools.

- (2.) A teacher in a high or public school, or collegiate institute.
- (3.) A trustee or supporter of a Roman Catholic separate school.

**20.—How may the Office of Public School Trustee be vacated.**

- (1.) By decision of the county judge, on a complaint being made to him against the election. (See note to section 17 of this chapter.)
- (2.) By refusal to serve.
- (3.) By resignation of office.
- (4.) By death.
- (5.) By removal from the municipality.

NOTE.—Although the school law relating to the refusal to act, resignation, removal, and neglect to make the declaration of office, on the part of rural school trustees, is expressed in almost every case in general terms, yet it is doubtful whether it strictly applies to trustees in cities, towns and incorporated villages. (See Sections 3 and 4 of chapter 1, part 1, of these lectures, pages 9 and 10.)

**21.—Personal Responsibility of Public School Trustees.**

NOTE.—A good deal of what is said on the subject of the personal responsibility of the rural school trustees (which is fully discussed on page 3, 11-14 and 38 of the first part of these lectures) may be held to apply to trustees in cities, towns and villages generally. Yet as the circumstances of the two classes of trustees are different, what is special in its application to the two classes can be easily determined by the parties concerned. See also provisions of the 22 Vic., ch. 126, on page 123.

## CHAPTER XIII.

### GENERAL CORPORATE POWERS OF BOARDS OF PUBLIC SCHOOL TRUSTEES IN CITIES, TOWNS AND INCORPORATED VILLAGES.

**1.—Trustees to be a School Corporation.**

The law declares that "the trustees in each city, town, and incorporated village shall be a corporation, under the name of *Public School Board of the City [town or incorporated village] of* ———. And no such corporation shall cease by reason of want of trustees; but in case of such want [the board of trustees] \* \* may, by giving six days notice, \* \* call a meeting of the assessed freeholders or householders, who shall proceed to elect \* \* trustees, [to fill up the vacancy or vacancies] \* \* and the trustees thus elected shall hold, and retire from office, in the manner prescribed for trustees."

**2.—General Powers and Liabilities of a Corporation.**

The Consolidated General Interpretation Act further declares that "words making any association or number of persons a corporation, or body politic and corporate, shall vest in such corporation power to

sue and be sued, contract and be contracted with, by their corporate name; to have a common seal,\* and to alter or change the same at pleasure, and to have perpetual succession, and power to acquire and hold personal property and moveables for the purpose for which the corporation is constituted, and to alienate the same at pleasure; and shall also vest in any majority of the members of the corporation, the power to bind the others by their acts; and shall exempt the individual members of the corporation from personal liability for its debts or obligations or acts, provided they do not contravene the Act incorporating them;—But no corporation shall carry on the business of banking [i. e. taking or issuing promissory notes, &c.] unless when such power is expressly conferred on them by statute. See "*Decisions of Courts*," 4th section (1.) below.

### 3.—Additional General Powers of Public School Boards.

The Consolidated School Act authorizes public school boards "to exercise, as far as they judge expedient in regard to their city, town or village, all the powers vested in the trustees of each school section, in regard to such school section. (See part I. of these lectures.)

NOTE.—This general power refers chiefly to detail, and does not authorize a board to levy school rates, as the exercise of such a power would conflict with an express enactment which makes it the duty of the board to lay an estimate of all moneys required by it before the municipal corporation, and also makes it imperative upon that corporation to raise the money required by the board, without any diminution. Besides, in rural sections the trustees require to get the rate-payers consent, which is not authorized in cities, town and villages. (See decision of the court No. (5), page 114.)

### 4.—Decisions of the Superior Courts with regard to School Trustee Corporations.

(1.) *Circulation of School orders on Treasurer, an act of banking contrary to Law.*—Chief Justice Draper thus condemns unauthorized acts of banking on the part of corporations. He says: "The evidence given at this trial shows that a practice had grown up for the defendants to give orders on their treasurer, which, when he had accepted them, got into circulation, and at last found their way into the collector's hands, in payment of taxes. Such a practice seems to me at variance with the spirit, if not the intention, of the Consolidated Municipal Act, which enacts that no council shall act as a banker, or issue any bond, bill, note, debenture or other undertaking of any kind, or in any form of the nature of a bank bill or note, or intended to form a circulating medium, or to pass as money; and any bond, bill, note, debenture, or other undertaking issued in contravention of this section shall be void.—*In re Munson v. The Municipality of Collingwood*, 9 C. P. R. 497.

(2.) *A Corporation aggregate is not bound to appear as Witnesses in court, but its Individual members may be subpoenaed.*—The Court of Common Pleas has decided that a corporation aggregate is not bound to appear at the trial as witnesses, under

\*A corporation being an invisible body, cannot manifest its will by oral communication: a peculiar mode has therefore been devised for the authentic expression of its intention,—namely the affixing of its common seal; and it is held that though the particular members may express the private consent by words or signing their names, yet this does not bind the corporation: it is the fixing of the seal, and that only, which unites the several assents of the individuals composing it, and makes one joint assent to the whole.—*Smith's Mercantile Law*, B. I. Chap. 4.



a notice served on its attorney under the Consolidated Statute 22 Vic. chap. 32, sec., 15. If the individual members are required to appear, they must be individually subpoenaed.—*Trustees No. 2, Dunwich v. McBeath*, 4 C. P. R. 228.

(3.) *A Trustee when sued for a Corporate Act entitled to notice of Action.*—The Court of Common Pleas has decided, in a case of alleged trespass under a warrant, that a school trustee who is sued for any act done in his corporate capacity, is entitled to notice of action, and that the action must be brought within six months; and that a school trustee, acting in the discharge of his duty as such, is entitled to the protection of, and comes within the Consolidated Statute, 22 Vic., chap. 126, notwithstanding he should have signed a warrant individually, instead of in his corporate capacity.—*Spry v. Munby, et al., No. 15, Rawdon*. 11 C. P. R. 285.

(4.) *Protection of Trustees, Collectors, and other lawful School Officers.*—The following are the provisions of the act for the protection of magistrates and others, to which the judge in the foregoing decisions referred.

SEC. 1. Every action brought against any justice of the peace for any act done by him in the execution of his duty as such justice, with respect to any matter within his jurisdiction as said justice, or against any other officer or person fulfilling any public duty, for anything by him done in the performance of such public duty [interpreted by the court in the foregoing case (11 C. P. R. 285) to apply to school trustees and to collectors of school rates, when acting under the trustees' lawful warrant] whether any of such duties arise out of the common law or be imposed by Act of Parliament, either Imperial or Provincial, shall be an action on the case as for a tort, and in the declaration it shall be expressly alleged that such act was done maliciously and without reasonable and probable cause; and if at the trial of any such action, upon the general issue pleaded, the plaintiff fails to prove such allegation, he shall be non-suited, or a verdict shall be given for defendant.

SEC. 20. So far as applicable the whole of this Act shall apply for the protection of every officer and person mentioned in the first section hereof, for anything done in the execution of his office, as therein expressed.

NOTE.—The twentieth section of the School Law Amendment Act of 1860, also provides that "Trustees shall not be liable to any prosecution, or the payment of any damages for acting under any by-law of a municipal council before it has been quashed."

## CHAPTER XIV.

### CONSTITUTION AND PROCEEDINGS OF PUBLIC SCHOOL BOARDS.

#### 1.—How is each Public School Board constituted?

(1.) In cities and towns divided into wards there shall be two trustees for each ward who hold office for two years. (2) In towns not divided into wards, and in incorporated villages, there shall be six trustees, two of whom, after the first election, are to hold office for three years. (See sects. 16 and 17 of chap. xii. page 120.)

#### 2.—Who are the Officers of the Board?

The law requires that there shall be elected annually by the board from among its own members (1) a *chairman*. The board is also required to appoint for such period as it may decide (2) a *secretary*,

and (3) an *inspector of schools* (who must possess a certificate of qualification. See chapter xvii.) It may also at its discretion appoint—(4) a *collector* of school fees [for text books, stationary and other contingencies], and (5) a *secretary-treasurer*.

NOTE.—The chairman has only one vote. See below, clause (2), of section 6 of this chapter. (For duties of inspectors, see chapter xvii.)

### 3.—Standing and other Committees of the Board.

In addition to the officers mentioned, the board of trustees can most conveniently supervise the details of its work by means of committees, viz., (1) on finance, (2) school buildings, (3) appointments of teachers, (4) printing, (5) repairs and supplies, (6) school management, and any others desired. The board is authorized to "appoint a special committee of not more than three persons [not necessarily members of the board] for the special charge, oversight and management of each school within the city, town or village."

### 4.—Times and Place of Meeting and Proceedings of the Board—School Accounts.

The board is authorized by law "to appoint the times and places of their meetings and the mode of calling them; and of conducting and recording their proceedings, and of keeping all their school accounts."

NOTE.—In regard to school accounts, the council is required by law to transmit to the Chief Superintendent an audited statement of these accounts, see ch. I, p. 84.

### 5.—What is the most usual order of business?

At every regular meeting of the board the usual order of proceeding generally is:

- (1) Reading and confirming the minutes of the previous meeting.
- (2) Reading and referring letters, memorials, &c.
- (3) Giving notices of motion.
- (4) Taking up unfinished business and former notices of motion.
- (5) Presenting and adopting reports of committees.
- (6) Miscellaneous business.

### 6.—What "Rules of Order" are generally observed?

(1) *Quorum*—A majority of the members of the board form a quorum.

(2) *The Chairman* has by law one vote on all questions; and in case of a tie, the question is considered lost.

(3) *The Inspector* should be entitled to a seat within the bar and have the privilege, at the request of the chairman, of speaking on any matter connected with his department, but without having a vote on any question.

(4) *Addressing Chairman*—Every member, previous to speaking, should rise and address himself to the chairman, unless excused.

(5) *Questions and Replies*—Questions asked and replies to members, should be made through the chairman.

(6) *Order of Speaking*—When two or more members rise at once, the chairman names the member who shall speak first, after which the other member or members have the right to address the meeting in the order named by the chairman.

(7) *Speaking Twice*—No member should speak more than ——— minutes or twice (except in Committee) on the same question or amendment, without leave of the meeting, (except in explanation of something which may have been misunderstood, or in reply to a question,) until every one desiring to speak should have had an opportunity of doing so.

(8) *Motion to be Read*—Each member may require the question or motion under discussion to be read for his information at any time, but not so as to interrupt a member when speaking.

(9) *Filling Blanks*—In blanks the largest sum and the longest time should be first put.

(10) *Non-Debatable Questions*—Motion (1) to adjourn, (2) lie on the table, (3) for the "previous question," or (4) upon the order of business, are not debatable.

(11) *Previous Question*—When the "previous question," is decided in the negative, the original question remains before the board to be debated or put, &c.

(12) *Proper Motions*—When a question is under debate, no motion should be received but (1) to adjourn, (2) table report &c., (3) for the "previous question," (4) to postpone to a day certain, (5) to commit, or recommit to a committee, (6) to amend, or (7) to postpone indefinitely—which several questions should have precedence in the order in which they are named.

(13) *Questions Decided*—No question decided by the board should be again raised without the consent of a majority of the Board.

(14) *Motions before the Meeting*—All motions made and seconded are considered in possession of the board, and should be reduced to writing whenever required by a member; they may be withdrawn at any time before decision, with the consent of the meeting.

(15) *Kind of Motion to be Received*—When a motion is under debate, no other motion should be received, unless to amend it or to postpone it, or for adjournment; but no motion or proposition on a subject different from the one under consideration should be introduced under colour of an amendment.

(16) *Order of Putting Motions*—All questions should be put in the order in which they are moved. Amendments to be put before the main motion; the last amendment, first and so on.

## CHAPTER XV.

### POWERS AND DUTIES OF BOARDS OF TRUSTEES IN REGARD TO THE SITE AND SCHOOL HOUSE.

#### 1.—Who shall select the Site of a School House ?

The public school board can alone select, purchase or rent the sites necessary for the school houses of the municipality. They are not required to ask the consent of the ratepayers or municipal corporation, or otherwise consult either of them, unless they see fit to do so. Even then the consultation is merely advisory, and does not relieve the trustees of any responsibility in the matter.

#### 2.—By what Title can Trustees acquire and hold School Property ?

The public school board is required by law "to take possession and to acquire and hold as a corporation in the [municipality] by any title whatsoever, all property acquired or given for public school purposes."

#### 3.—Necessity for a Proper Title to the School Site.

The provision of the law, which vests all school property in the public school board for the purposes of sale, assumes that the trustees shall, whenever practicable, obtain a deed, a bond for a deed, a lease, or other legal instrument, granting quiet possession to them of the property in their municipality, in case they have not a sufficient title to it. Objection is frequently made to the legality of the acts of a public school board where no full legal title to the school premises is vested in them. To remove this objection (although it is often a technical one), trustees should obtain the legal instrument referred to, and have it registered without delay.\* Every public school house and site are exempted from taxation, as provided in the General Assessment Act.

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*\* The following is the form of Deed suggested :*

**Form of Deed for the Site of the School House, Teacher's Residence, &c.**

THIS INDENTURE, made the — day of —, in the year of our Lord one thousand eight hundred and —, in pursuance of the School Acts of Ontario, and of the Act respecting the transfer of real property, between — of the City [Town or incorporated Village] of —, in the County of —, and Province of Ontario, — [Business or Calling], of the first part : —, wife of the said party of the first part, of the second part : and the Public School Board of the City [Town or incorporated Village] of —, in the County of —, and Province aforesaid, of the third part :

WITNESSETH, that in consideration of — dollars of lawful money of Canada, now paid by the said board, to the said party of the first part (the receipt whereof is hereby by him acknowledged),

#### 4.—Registration of Trustees' Title to School Premises.

A board of trustees should not fail to register its title to the school site. In case the owner of a site refuses to sell it to the trustees, and they are compelled to take possession of it under an award of arbitrators (as authorized by the School Act of 1871), they should register the award, if the owner should refuse to give them a title under the award.

NOTE.—Want of registration of titles does not deprive the trustees of any legal right which they possess under the school law.

#### 5.—When Trustees may Sell a School Site or other Property.

Public school boards can dispose, by sale or otherwise, of any school site or school property which may not be required by them.

#### 6.—Owner of vacant Land must Sell School Sites selected.

If the owner of a newly selected school site, (being vacant land), or of land adjoining an old site (which the trustee board has decided to enlarge) should refuse to sell it, or should ask an unreasonable price for it, the law requires that the board and owner shall each appoint an arbitrator to appraise damages to the owner for such compulsory sale. Upon the tender of payment of these damages to the owner of

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he, the said party of the first part, doth grant unto the said board of the City [*Town or incorporated Village*] aforesaid, their successors and assigns for ever, all and singular that parcel of land [*describing it in full*].

TO HAVE AND TO HOLD the same in trust to and for the use of a Public School [and Teacher's Residence], in and for the City [*Town or incorporated Village*] of —, and in the County and Province aforesaid, according to the provisions of the School Acts of Ontario, and for the education of the resident youth of said municipality.

The said party of the first part COVENANTS with the said board that he hath the right to convey the said lands to the said board, notwithstanding any act of the said party of the first part: And that the said board shall have quiet possession of said lands, FREE FROM ALL INCUMBRANCES: And the said party of the first part COVENANTS with the said board that he has done no act to encumber the said lands; and the said party of the first part releases to the said trustees all his claims upon the said lands: And the said party of the second part hereby bars her dower in the said lands.

IN WITNESS WHEREOF, the said parties hereto have hereunto set their hands and seals, on the day and year before mentioned.

Signed, sealed and delivered,  
in presence of

H. T. }  
C. T. } *Witnesses.*

J. C. [*Settler's Seal*].  
F. R. [*Settler's Wife's Seal*].

——— Chairman of Board. } *Board of Trustees'*  
——— Secretary of Board. } *Corporate Seal.*

NOTE.—When the land has descended to the wife in her own right, she must, besides joining with her husband in the conveyance, appear before two justices of the peace, to declare that she has parted with her estate in the land intended to be conveyed, without any coercion, or fear of coercion by or on part of her husband: and the certificates of such justice must appear on the back of the conveyance on the day of its execution. The form of their certificate is as follows:

"We [*inserting the names*], Justices of the Peace for the County of —, do hereby certify that on this — day of —, 187 , at —, the within deed was duly executed in our presence, by —, the wife of —, one of the grantors therein named; and that the said wife of said —, at the said time and place, being examined by us, apart from her husband, did appear to give her consent to convey her estate in the lands mentioned in the said deed, freely and voluntarily, and without coercion or fear of coercion on the part of her husband, or of any other person or persons whatsoever

Dated the — day of —, 187 .

"R. W.—, J.P.  
"A. M.—, J.P.

the vacant land by the board of trustees, they can take possession of it for school purposes, and proceed to erect a school house on it, or to enclose it as they please.

#### **7.—Power and Privileges of the Owner of New Site.**

The right of selection of a person's property for a school site (without his knowledge or consent), in a city, town or incorporated village, is restricted to vacant land, which the owner may either consent to sell at a reasonable rate, or he may refuse to sell it, at his pleasure.

#### **8.—Respective Powers and Duties of Trustees and Owners of Sites.**

The public school board has the right to select any "vacant land" of sufficient size in the municipality for a school site. In case the owner should "refuse to sell," or should "demand therefor a price deemed unreasonable by the trustees," the board and the owner "shall each forthwith select an arbitrator, and the arbitrators thus chosen and the county inspector, or any two of them, shall appraise the damages to the owner of said land, and upon the tender of payment of the amount of said damages to the owner by the school trustees, the land shall be taken and used for" a school site. (See sec. 11, p. 129.)

NOTE.—Although the trustee board can only *compel* the owner of property to sell "vacant land" for a school site, yet, by mutual consent, any land, whether occupied or unoccupied, which may be deemed suitable by the trustees for a school site, may be purchased by them for that purpose. They are *not* required to submit the question of selection of school site to the ratepayers.

#### **9.—Remedy in case the Owner refuses to appoint an Arbitrator.**

The School Act of 1871 provides that in case the owner of vacant land selected as a school site in a city, town or incorporated village, should refuse or neglect to appoint an arbitrator to "appraise the damages to the owner of such land," "it shall be competent for the county inspector, with the [trustees'] arbitrator appointed to meet and determine the matter; and the county inspector, in case of such refusal or neglect, shall have a second or casting vote, provided, they should not agree."

#### **10.—Making and Publishing an Award—This may be done by Deed or Parol.**

When the arbitrators have agreed upon their award, they should reduce it to writing, sign and seal it. This is "making" the award. When thus made, it should be sent to the trustees, for their information and to the other party. This is "publishing" it. It is competent, however, for the arbitrators to declare or publish the award before witnesses orally, in presence of the parties concerned, viz., the trustees and the other party. Should the award thus published be afterwards, by consent reduced to writing, (as above) it should

be identical in its terms with the oral declaration made, and should be merely a written copy of it. Any material variation in the written copy from the oral award would destroy its validity and finality. (See *Davis v. McGivern*. 11 Q. B. R. 112.)

#### 11.—Summary of General Rules in regard to Arbitrations.

(1.) *Constitution of the Arbitration Court.*—Any one who can contract, can submit matters in dispute to arbitration. Either a friend or enemy, or a person having an interest in the cause, may be chosen. Persons unimpeachable on the score of interest or capacity should, if possible, be chosen, and no arbitrator should act as the partisan of the persons appointing him. He should divest himself of all prejudice. If an arbitrator acts corruptly, or with manifest partiality or colludes with one of the parties, the award is bad. All the arbitrators should be chosen before proceeding to the arbitration, except where otherwise provided (as in the case of a school site.) Notification in writing to the person chosen, and acceptance by him of the office, are necessary to complete the appointment. Where there are an odd number of arbitrators, a majority decides all matters submitted to them; but, where the number appointed is two, four, &c., who are equally divided in their opinions, any person who may be selected as umpire has the sole right to determine the points of difference, and make the award. The inspector is, *ex officio*, umpire in cases where he and another arbitrator only are present. In arbitrations under the school law the directions of the statute should be strictly complied with. Reasonable notice of a meeting must be given to each arbitrator. If one or more be absent, the meeting should be adjourned for about ten days, and notice of another meeting again sent to each arbitrator. At the subsequent meeting two arbitrators can act without their colleague and make and publish an award.

(2.) *Duties of Arbitrators.*—It is the duty of arbitrators to hear evidence on both sides; one witness may be excluded while the other is being examined. They are the judges of the *admissibility* of evidence so far as the competency of the witness is concerned. If parties to the arbitration and their witnesses, who are duly notified, do not attend, the arbitrators can proceed, *ex parte*, and decide according to the best evidence before them. Where evidence is received, however, it should always be taken in the presence of the parties to the reference, or some one attending on their behalf. Before closing, the arbitrators should receive all the evidence tendered on both sides, and should take notes of it. An arbitrator cannot delegate his power; but, if he obtains the opinion of professional men, he may adopt it as his own. He may, however, delegate, purely ministerial acts, such as to go from one place to another, to obtain certain definite information, or estimate the value of some specific work performed; but he cannot direct any person to commit a trespass.

(3.) *Time of making an award.*—If no time be fixed, an award should be made and published within three months from the time of the submission. The time for making an award may, however, be enlarged. If time lapses, the power of the arbitrators is gone until it is enlarged.

(4.) *Making and publishing an award.*—All awards should be in writing, signed in the presence of an attesting witness. Where there are two or more arbitrators, all (or the majority if all be not present) must execute the award at the same time and place and in the presence of each other. An award, however, may be made and published orally. An award is made when all the arbitrators have signed it. When so signed by the arbitrators and witnessed, their power is gone, and no single arbitrator can remedy a mistake or correct a blunder. It must be done by the signers and with the consent of the parties to the reference. An award is published when it is sent to either, or both of the parties concerned, or notice is sent to them that it is ready to be delivered. It should be delivered on

the day fixed, and then the fees and other expenses on it are payable. Any kind of words may be used in an award; but it should be definite, conclusive and final on all the points submitted. Arbitrators are not required to give reasons for their award, nor are they answerable for want of skill in performing their duties; but an arbitrator may be called as a witness to prove facts, which occurred or came under his notice during the reference.

(5.) *Judgment and Experience.*—In *Martin v. Korgan*, (2 Prac. R., 370), it was held that the parties to an arbitration "have a right to the arguments, experience, and judgment of each arbitrator, at every stage of the proceedings."

(6.) *Costs of Arbitration.*—Where the costs of the arbitration are at the discretion of the arbitrators, and the award says nothing about them, each party pays his own costs of reference, and the costs of the award are to be borne equally.—*Glen v. Grand Trunk Railway*, 2 Prac. R. 377. Under the school law the costs are at the discretion of the arbitrators. The award need not be given up until the amount be paid.

(7.) *When an award is bad.*—(1) When it is uncertain and not final. (2) When it contains a mistake on the face of it. (3) When the proceedings are irregular, as want of notice of meetings, improper conduct of arbitrators in receiving evidence. (4) Corruption or collusion on the part of the arbitrators. (5) Fraud or concealment of material evidence. (6) When the award cannot be acted upon.

(8.) *Arbitration, before award made, may be superseded by mutual concurrence.*—Chief Justice Robinson thus laid down the law on this subject:—As a general rule, we take it that where two parties have a difference upon any matter of business, and refer it to arbitration, they may afterwards agree upon the matter on which they had differed, and so may render it unnecessary that any award should be made. By the common law either party might, before the award made, revoke the submission.—There have been restrictions lately placed by statute upon this right of one party to revoke without the concurrence of the other, but it would be most unreasonable and inconvenient to hold that both the parties may not come to a settlement of their dispute, and so dispense with the necessity for the arbitrators proceeding.—*Chief Justice Robinson, in re Vance v. King et al*, No. 1, *Hallowell*, 21 Q. B. R., 187.

#### 14.—Erection of School House, Teacher's Residence, &c.

The trustee board has alone the right to decide upon the cost, size and description of school house, or teacher's residence, to be erected. No ratepayer, public meeting or municipal council has any authority to interfere with the board in this matter. They have also full power to decide what fences, outbuildings, sheds and other accommodations shall be provided, as explained in section 4, chapter xvi, page 133. To them also exclusively belongs the duty of having the school grounds planted with shade trees and properly laid out. (See section 4 of the next chapter.)

#### 15.—Restriction on the use of the School House.

No school house or lot (unless so provided for in the deed), or any building, furniture or other thing pertaining thereto, shall be used or occupied for any other purpose than the use and accommodation of the public schools of the city, town or village, without the express permission of the trustee board, and then only after school hours, and on condition that all damages be made good, and cleaning, sweeping, &c., promptly done, or compensation made.



### 16.—Decisions of the Superior Courts in regard to the School House.

(1.) *School-House Contracts not valid without Trustee Corporate Seal.*—The Court of Common Pleas has decided that school trustees, being a corporation under the school acts, are not liable as such to pay for a school-house erected for and accepted by them, not having contracted under seal for the erection of the same. The seal is required as authenticating the concurrence of the whole body corporate.—*Marshall v. Trustees, No. 4, Kitley*. 4 C. P. R. 375.

NOTE.—Such a contract, not being binding on the corporation, would be binding on the individual trustees who made it with a third party, acting in good faith. Query, whether the trustee-corporation would not, by subsequently taking possession of the school-house, or by some other act, recognise the validity of the contract?

(2.) *Contract under Seal, signed by a majority of the Corporation, binding.*—The same court has also decided the following case:—A contract was entered into by a majority of the trustees, under their corporate seal for building a school-house; after the house was built the trustees refused to pay, on the plea that the contract was not legal, a jury having given a verdict in favour of the trustees, a new trial was ordered, and the former verdict in favour of the trustees was set aside. The court held that a contract entered into by a majority of the trustees under the school act, with the corporate seal attached, is sufficient; and a plea that the contract was signed by the subscribing trustees, without the consent or approbation of the others was held bad.—*Forbes v. Trustees, No. 3, Plympton*. 8 C. P. R., 73, 74.

(3.) *School-House and site in use not liable to be sold on judgment against trustee-corporation.*—The Court of Queen's Bench has given judgment as follows.—In a case in which a school-site had been given to the trustees for the purposes of a school (with the condition that it should revert to the giver in case it should cease to be used for school purposes), and on which they had erected a school-house, judgment was obtained against the corporation for the money due on the building contract. The school-house and site were actually sold and deeded by the sheriff; but the court held that the house and land could not lawfully be sold—it being contrary to public policy that a school-house in daily use (any more than a court-house or jail) should be held liable upon a writ of execution, as not the trustees, but the inhabitants of the locality, are the *cestuis que trust*, (i.e., the persons for whose benefit the trust is held.) The plaintiff should have resorted to his other remedies against the trustees for neglect of duty.—*Scott v. Trustees of Union Section, No. 1 Burgess and 2 Bathurst*. 19 Q. B. R. 484.

(4.) *Trespass on the School-House.*—The Court of Queen's Bench has decided that the trustees of the school, and not the teacher, should sue for a trespass on the school-house; unless it can be shown that the trustees have given the teacher a particular interest in the building, beyond the mere liberty of occupying it during the day for the purpose of teaching.—*Monaghan v. Ferguson et al., No. 1, London*. 3 Q. B. R. 484.

(5.) *The Assessment Act* exempts from taxation "every public school-house, with the land attached thereto, and the personal property belong to it."

## CHAPTER XVI.

MISCELLANEOUS POWERS AND DUTIES OF  
PUBLIC SCHOOL BOARDS.

NOTE.—As explained in chapter xiii., public school boards have certain general powers as corporations. They have also certain specific powers in regard to school sites and school houses, as explained in chapter xv. Their miscellaneous powers and duties will be explained in this chapter.

## 1.—The School and its Appliances.

The School Law gives trustee boards full power "to do whatever they may judge expedient with regard to"—

- (1.) Purchasing or renting school sites and premises.
- (2.) Building and repairing school houses, their furniture and appendages, and other movable property.
- (3.) Furnishing and warming ditto ditto.
- (4.) Keeping in order ditto ditto, also lands enclosures and moveable property.
- (5.) Procuring suitable apparatus and authorized text books (see note below.)
- (6.) Establishing and maintaining free public school libraries.

NOTE.—These powers of public school trustees are of the amplest description. They are so unrestricted as to give trustee boards authority "to do *whatever they may think expedient*" in regard to any of the six matters referred to above. One or two points are worthy of notice.

(1.) Trustee Boards are not required to consult their constituents in regard to the cost, &c., of any of these things. See Section 1 of chapter xv., page 126.

(2.) They are not required to consult the municipal council in regard either to the cost or expediency of these things, but can, (as explained further on), if necessary, compel the council to provide money to defray the expenses incurred in regard to them.

## 2.—How can School Trustee Boards Provide Funds?

Public School Boards are authorized and required "To prepare from time to time, and lay before the municipal council of the city, town or village, an estimate of the sums which they think requisite:

- "(a) For paying the whole or part of the salaries of teachers;
- "(b) For purchasing or renting school premises;
- "(c) For building, erecting, repairing warming, furnishing and keeping in order the school houses and their appendages and grounds;
- "(d) For procuring suitable apparatus and text books for the schools.
- "(e) For the establishment and maintenance of free public school libraries for the city, town or incorporated village; and
- "(f) For all necessary expenses of the schools under their charge.

### 3. The Council is Required to Provide Necessary Funds.

"And the council of the city, town or village shall provide such sums in the manner desired by the said board of school trustees." (See section 2 of chapter x., page 112.)

NOTE.—In regard to this estimate and application we remark :—(1.) The word "shall" in this provision of the law, makes it imperative on the municipal council to provide the sums required by the board "in the manner desired" by it—whether by rate or loan.

(2.) The council has no power to alter or reject the estimate sent in to them by the board.

(3.) In regard to the "estimate," it should be in proper form, and enclosed by the chairman or secretary of the board to the council with a respectful letter, asking for the money required. (See decisions of the courts, Nos. 2 and 11, of chapter xi., on pages 113 and 115.)

(4.) From the decisions of the superior courts, given on page 113, it will be seen how the courts interpret the law on this subject.

(5.) Even should the council submit their by-law authorizing a loan, or the levy of a school rate, to the electors (under the municipal law) that does not relieve the council of the obligation imposed on it by the school acts and decisions of the courts, to "provide" the sums required by the school board, "in the manner desired by it." (See note on 3 of chapter xiii., page 122.)

(6.) Public school boards have authority to manage and dispose of all moneys and income for public school purposes. (See section 8 of this chapter, page 134.)

### 4.—What constitutes adequate School Accommodation.

The law declares that the trustee board shall provide adequate accommodations for all the children of school age [*i. e.*, between the ages of five and twenty-one years, resident] in their school division " [*i. e.*, city, town, or village.] The "accommodation," to be adequate should include :

(1) *Size of Site*—A site of an acre in extent, but not less than half an acre

(2) *Size of Rooms*—A school house (with separate rooms where the number of pupils on the roll exceeds fifty), the walls of which shall not be less than ten feet high in the clear, and which shall not contain less than nine square feet on the floor for each of the pupils, so as to allow an area in each room for at least one hundred cubic feet of air for each pupil.\* The rooms must also be sufficiently warmed and ventilated, and the premises properly drained.

(3) *Fence*—A sufficient fence or paling round the school premises.

(4) *A Play Ground*, or other satisfactory provision for physical exercise within the fences, and off the road.

(5) *A Well*, or others means of procuring water for the school.

(6) *Separate Offices*—Proper and separate offices for both sexes, at some little distance from the school house, from each other, and enclosed with a high and secure fence.

\*Thus for instance, a room for fifty children would require space for 5,000 cubic feet of air. This would be equal to a cube of the following dimensions in feet, viz. : 25 + 20 + 10, which is equivalent to a room 25 feet long by 20 feet wide and 10 feet high.

(7) *Maps, Apparatus and Library*—Suitable school furniture and apparatus, desks, seats, blackboards, maps, library, presses and books, &c., necessary for the efficient conduct of the school. (See sec. 1.)

NOTE.—*General Suggestions to Trustee Boards in regard to School Premises.*—The school ground should embrace not less than half an acre, so as to allow the school house to be set well back from the street, and to furnish play grounds within the fence. A convenient form for school grounds will be found to be an area of ten rods front by sixteen rods deep, with the school house set back four rods from the street. The grounds should be strongly fenced, the yards and outhouses in rear of the school house being invariably separated by a high and tight board fence; the front grounds being planted with shade trees, shrubs and flowers in their season. Various simple plants required for illustration in the lessons on botany, might be cultivated near the school house. Flowers, beautiful in themselves, have a most delightful and humanizing influence on children and youth, who should be taught to care for and preserve them from harm on the school premises.

#### **5.—Text Books and Stationery may be charged for.**

By the Act of 1871 public school boards are authorized, "if they deem it expedient, to collect from parents and guardians of children attending any school under their charge, a sum not exceeding twenty cents. per month, per pupil, to defray the costs of text books, stationery and other contingencies."

NOTE.—This charge for the use of text books and stationery, is optional on the part of trustee boards. It was authorized so as to enable trustees to purchase these things in large quantities, and supply them from their depositories to the pupils in the schools free of charge.

#### **6.—Payments of School Moneys.**

Trustee boards are required to give "orders to teachers and other school officers and creditors for the sums due to them on the chamberlain (or treasurer) of the [municipality], or on their own secretary-treasurer." (See decisions of the superior courts on this subject, page 62.)

#### **7.—Inspectors to Countersign Cheques to Teachers.**

As the inspector is responsible for the payment to the Education Department by each male teacher of the half-yearly fee to the Superannuated School Teachers' Fund, the board should either direct the treasurer to pay this money over to the inspector, or let the orders to teachers be countersigned by him, so that he could arrange to deduct it from the account of the cheque or order in favour of the teacher.

#### **8.—Board to Manage and Dispose of School Moneys.**

Each public school board is authorized "to manage and dispose of all moneys or income for public school purposes;" and to apply the same to the objects for which they have been given or acquired."

#### **9.—Public School Boards in Cities and Towns may invest Surplus School Moneys.**

The Municipal Institutions Act, (29 and 30 Vic. chap. 51), section 274, declares that "the board of school trustees of any city or town in

Ontario, having surplus moneys for educational purposes, may invest the same in the purchase of provincial, consolidated loan fund, or municipal debentures, or [in first mortgages secured on real estate, held and used for farming purposes, and to be the first lien on or against such real estate, and, from time to time, as such securities mature, to invest in other like securities, or in the securities already mentioned by law, as may be directed by such by-law, or by other by-laws passed for that purpose: Provided always, that no [school trustee] corporation shall invest in such real estate securities within the limits of its own municipality, nor shall any sum so invested exceed one-third of the value of the real estate on which it is secured, according to the last revised and corrected assessment roll at the time it is so invested;] and any by-law or resolution of any such corporation heretofore made, for authorizing any such investment, under which any such money has been so invested, shall be held to be a good and valid by-law or resolution."

#### 10.—Municipalities may Loan such Surplus to Public School Trustees.

"275. Any municipal corporation, having surplus moneys derived from the Ontario Municipalities Fund, shall have power, by by-law, to set such surplus apart for educational purposes, and to invest the same in a loan or loans to any board or boards of school trustees within the limits of the municipality, for such term or terms, and at such rate or rates of interest as may be agreed upon by and between the parties to such loan or loans respectively, and set forth in such by-law."

#### 11.—Liability of School Trustees Investing otherwise than as Authorized by Law.

"227. Any member of any municipal council or board of school trustees, who shall take part in, or in any way be a party to the investment of any such moneys as are mentioned in this Act, by or on behalf of the corporation of which he is a member, otherwise than is authorized by this Act, or by \* \* \* any other law in that behalf made and provided, shall be held personally liable for any loss sustained by such corporation, and shall also be guilty of a misdemeanour, and be liable to conviction in any court of competent jurisdiction in Ontario; and upon conviction may be sentenced to fine or imprisonment, or both, in the discretion of such court."

#### 12.—Responsibility of Public School Trustees for School Moneys.

The law declares that "if any public school trustee has in his possession any books, papers, chattels or moneys, which came into his possession as such trustee, and wrongfully withholds or refuses to deliver up, or to account for, and pay over the same or any part

thereof to the person, and in the manner directed by a majority of the school trustees then in office, such withholding or refusal shall be a misdemeanor."

### 13.—Mode of Enforcing Penalty.

"Upon application to the judge of the county court by a majority of such trustees, any two ratepayers supported by their affidavit made before some justice of the peace, of such wrongful withholding or refusal, such judge shall make an order that such trustee do appear before him at a time and place to be appointed in the order; \* \* \* and if he is of opinion that the complaint is well founded, such judge shall order the party complained of to deliver up, account for, and pay over the books, papers, chattels, or moneys, as aforesaid, by a certain day to be named by the judge in the order, together with such reasonable costs incurred in making the application as the judge may tax. In the event of a non-compliance with the terms specified in such order, or any or either of them, the judge shall order the said party to be forthwith arrested by the sheriff of any county in which he may be found, and to be committed to the common goal of his county, there to remain without bail until such judge be satisfied that such party has delivered up, accounted for, or paid over the books, papers, chattels, or moneys in question, in the manner directed by the majority of the trustees as aforesaid." \* \* \*

### 14.—Security to be taken from Secretary Treasurer.

The board of trustees is authorized "to appoint a secretary \* \* \* and, if requisite, a collector of school rates, \* \* \* which collector may be of their own number; and one of whom may be secretary-treasurer, who shall be subject to the same duties, obligations, and penalties as secretary-treasurer in school sections."

NOTE.—The "obligations" here referred to are the giving of "security" for the "safe keeping" and "accounting for all school moneys collected," and for "the disbursing of local money in the manner directed by a majority of the trustees." The "penalties" are the enforcement of those mentioned in the bond which the trustee are required to obtain from the secretary-treasurer, in terms of the Act, as follows: "It shall be the duty of school trustees to exact security from every person to whom they entrust school money, or other school property." Should the trustees appoint one of themselves to be secretary-treasurer, the provisions of the law, as given in section 12 (above) would apply to him. For form of bond or security, see page 24.

### 15.—Certain Parties Personally Responsible in case of lost School Moneys.

"If any part of the public school moneys be embezzled or lost, through the dishonesty or faithlessness of any party to whom it has been entrusted, and proper security against such loss has not been taken, the person whose duty it was to have exacted such security shall be *personally responsible* for the sums so embezzled or lost; and the same may be recovered from him by the party entitled to receive

the same, by action at law in any court having jurisdiction to the amount, or by information at the suit of the Crown."

### 18.—Penalty for False School Reports and Registers.

"If any trustee of a village school knowingly signs a false report, or if any teacher of a public school keeps a false school register, or makes a false return, with the view of obtaining a larger sum than the just proportion of school moneys coming to such school, such trustee or teacher shall, for each offence, forfeit to the public school fund, the sum of *twenty dollars*."

### 19.—Public and High Schools may be United.

The public school board is authorized "to adopt, at their discretion, such measures as they judge expedient, in concurrence with the trustees of the county high school, for uniting one or more of the public schools of the city, town, or village with such high school." The high school board is also authorized "to employ, in concurrence with the trustees of a rural school section, or the public school board in the township, village, town or city in which such high school may be situate, such means as they may judge expedient for uniting one or more of the public schools of such township, village, town or city, or departments of them, with such high school." \* \* \*

NOTE.—The union of high and public schools does not, as a general rule, work well, nor is it desirable to encourage such unions. Experience has proved that the tendency of these unions is to lower the standard of both kinds of schools.

### 20.—Conditions on which the Union may take place.

The law declares that "no such union shall take place without ample provision being made for giving instruction to the pupils in the elementary English branches, by duly qualified English teachers."

NOTE.—It will thus be seen that at least two teachers shall be employed in the high school, one to teach the "elementary English" and the other to teach the more advanced subjects mentioned in the high school programme.

### 21.—Union Board of High and Public School Trustees.

The *fifth* section of the High School Improvement Act of 1865, also provides that: "In all cases of the union of high and common school trustee corporations, all the members of both corporations shall constitute the joint board, *seven* of whom shall form a *quorum*."

### 22.—Powers of the Joint Board.

"The high and public schools thus united shall be under the management of a joint board of high and public school trustees, who shall consist of and have the powers of the trustees of both the public and high schools."

NOTE.—The powers of the joint board include the application from it to the municipal councils of the high school district to levy and collect whatever sums may be required. And it is the duty of the council of each municipality concerned,

upon the requisition of the joint board, to provide such sums as may be desired by the board, according to an estimate which the board shall lay before the council. The union of the boards implies a harmonious system and a gradation of schools; the high school being the superior school of the city, town or village, and the public school being the primary and secondary, and being open to all on examination; the high school teaching the higher branches, with the classics and mathematics, if desired, and being open to those public school pupils, and others, whose literary qualifications enable them to pass the required examination.

### **23—The Union of High and Public Schools may be Dissolved**

“Such union may be dissolved at the end of any year by resolution of a majority present at any lawful meeting of the joint board called for that purpose.”

### **24—Division of School Property of Union Board.**

“On the dissolution of such union between any high and public school, or department thereof, the school property held or possessed by the joint board shall be divided or applied to [high and] public school purposes, as may be agreed upon by a majority of the members of each trustee corporation; or if they fail to agree within the space of six months after such dissolution, then by the municipal council of the city, town, or incorporated village, within the limits of which such schools are situated, and, in the case of incorporated villages, by the county council.”

### **25.—Industrial Schools may be Established.**

The public school board has ample authority at its pleasure “to establish one or more industrial schools for otherwise neglected children.” In doing so they are authorized:—

- (1.) To “make all needful regulations for them.”
- (2.) To “employ the means requisite to secure the attendance of such neglected children.”
- (3.) To “employ the means requisite for the support” of such school or schools.
- (4.) To “make all needful regulations” for the “management and discipline of such school or schools.”

### **26.—What Children should attend the Industrial School.**

The board of trustees is authorized to employ the means requisite to secure the attendance at the industrial school of such “otherwise neglected children” as attend no school. The board is also authorized (so far as its municipality is concerned) to see that “every child from the age of seven to twelve years, inclusive,” shall “attend some school, or be otherwise educated for four months in each year.” Through the intervention of a magistrate the board can have the parent of the child fined for neglect to provide this education, or, as also, in case the child has no parent, or worthless parents, the board may arrange to have the “neglected” child removed to the industrial school. The law also provides, “that any pupil [of a public school]



who shall be adjudged so refractory by the trustees, (or a majority of them) and the teacher, that his presence in the school is deemed injurious to the other pupils, may be dismissed from such school, and, where practicable, removed to an industrial school."

### 27.—How many kinds of Schools may be established ?

The board is authorized "to determine the number, sites, kind and description of schools to be established and maintained in the city, town or village," viz :—

- (1) A central school for boys }
- (2) A central school for girls } or both combined.
- (3) A primary school in each ward for boys, girls, or infants.
- (4) Intermediate schools in convenient localities for boys and girls.
- (5) Infant schools in convenient localities, or connected with the ward schools, as above (3).
- (6) Industrial schools for neglected children of both sexes.

### 28.—Compulsory Attendance at School

As trustee boards can compel parents to send their children to some school for, at least, four months in the year, (as explained in the preceding section) they should see that the "compulsory" section of the School Act does not remain a dead letter. They should appoint some officer to report to them the names of all delinquent children resident in the municipality.

### 29.—Teachers Employed by the Trustee Board.

The board has alone the right "to determine the number of teachers to be employed" in the schools under its jurisdiction ; but it can only employ as teachers those who "hold a certificate of qualification" as provided by law. The board has also the right to fix—

- (2.) "The terms of employing" teachers.
- (3.) "The amount of their remuneration," and
- (4.) "The duties which they shall perform."

NOTE.—The "duties" here referred to which "teachers shall perform" can only be such as (in addition to those which the statute itself and the official regulations require them to perform) as may be considered desirable by the board of trustees. For "duties of teachers," see part I of these lectures, chapter viii., pages 55-63.

### 30 —Authorized Text Books to be Provided for Pupils.

The law makes it the duty of each public school board "to see that all the pupils in the school are duly supplied with a uniform series of authorized text books."

### 31.—Facilities for Providing Text Books and Stationery.

There are three ways of providing text books for the pupils, viz :

- (1.) The pupils may be required to provide their own text books, either (a) at a reduced rate from a text book depository kept by the

board,—it being authorized to do whatever it “may judge expedient with regard to procuring text books,” or, (*b*) the pupils may get their books from the ordinary book shops.

(2.) As the board is authorized to include the cost of text books in the “estimate” which it lays, from time to time, before the municipal council, it can either (*c*) give text books gratuitously to the pupils or (*d*) permit them only to use the books in the school room; or

(3.) The board can (if it “deems it expedient”) “collect from parents and guardians of children attending the schools a sum not exceeding twenty cents per month, per pupil, to defray the costs of text books, stationery and other contingencies.” In this case the board can also give the text books gratuitously to the pupils or, what is nearly equivalent to it, permit them to use the books in the schools without further charge.

### **32.—Free Public School Libraries for the Municipality.**

The law makes it the “duty” of each public school board “to appoint a librarian to take charge of the school library or libraries when established.” It further authorizes public school boards “to do whatever they may judge expedient in regard to \* \* \* establishing and maintaining school libraries,” and empowers them “to prepare and lay before the municipal council \* \* \* an estimate of the sums which they think requisite \* \* \* for the establishment and maintenance of school libraries.”

NOTE.—Under the regulations of the education department ample facilities are provided so that the board of trustees can establish and maintain three kinds of libraries in their municipality, viz:—

- (1.) A library for the use of the pupils in the schools.
- (2.) A professional library of books on education, and books of reference, for the sole use of the board and of the inspectors and teachers employed.
- (3.) A free public library of miscellaneous literature, for the use of all classes of the ratepayers.

The department has generally an abundant supply of all kinds of books, and can always procure any desirable special works which may be required. The 100 per cent. is allowed on all remittances received for these libraries, that is, if \$50 or \$100 are sent to the department \$100 or \$200 worth of books (as the case may be) will be forwarded in return.

### **33.—Observance of the Official Regulations.**

The law requires boards of trustees “to see that all the schools under their charge are conducted according to the authorized regulations.”

### **34.—Penalty for Non-Observance of Regulations.**

The Act of 1871 declares that, “no public or high school shall be entitled to share in the funds applicable to it unless it is conducted according to the regulations provided by law.”

### 35.—Annual Report of Public School Board.

Public school boards are required to report annually—

(1.) To the chief superintendent of education according to a form provided by him.

(2) To their constituents "in one or more of the public papers, or otherwise," viz., (a) "an annual report of their proceedings," (b) "and of the progress and state of the schools under their charge, and (c) of the receipts and expenditure of all school moneys."

NOTE.—Public School Boards are not required to report at the annual meeting of their constituents, but only in the public papers, in a pamphlet, or on a printed sheet, as may be deemed most satisfactory and convenient.

### 36.—Miscellaneous Duties of Public School Boards.

Public school boards are authorized and required to determine in regard to teachers:

- (1.) The number to be employed for their school;
- (2.) The terms of employing them.
- (3.) The amount of their remuneration, and
- (4.) The duties which they shall respectively perform.

In regard to the schools, the board is required—

(1.) "To see that all the pupils in the school are duly supplied with a uniform series of duly authorized text books."

(2.) "To appoint a librarian, and take charge of the free public school library."

(3.) "To see that all the schools under their charge are conducted according to authorized regulations."

(4.) "At the close of the year, to propose and publish in one or more of the public papers, (or otherwise,) for the information of the inhabitants, an annual report of their proceedings, and of the state and progress of the schools under their charge, and of the receipts and expenditure of all school moneys." (See note to section 4, page 124.)

(5.) "To prepare and transmit annually to the Chief Superintendent of Education, in the form provided by him, a report signed by a majority of the trustees, containing all the information required."

(6.) Call the annual and special school meetings of the ratepayers.

(7.) Form and alter union school sections (towns and villages) as proposed in chapter iv., sections 5, 6 and 7, pages 93 and 94.

Public school boards may, at their discretion,—

- (1.) Unite their school with the high school.
- (2.) Establish industrial schools for neglected children.
- (3.) Appoint a committee of three for each public school.
- (4.) Exercise the general powers of rural school trustees.
- (5.) Collect a fee for text books and stationery.

## CHAPTER XVII.

### INSPECTORS OF PUBLIC SCHOOLS.

#### I.—APPOINTMENT, SALARY AND TENURE OF OFFICE.

##### 1.—Three kinds of Public School Inspectors.

The law provides for the appointment of three kinds of public school inspectors, viz. :

- (1.) For counties, or ridings of counties (including villages), or for portions of counties containing French or German schools.
- (2.) For cities.
- (3.) For towns.

##### 2.—Who may be a Public School Inspector ?

A person may be an inspector who possesses the following qualifications, viz. :

- (1.) He shall hold a first-class provincial certificate of a public school teacher, grade A, or
- (2.) Be a graduate who has proceeded regularly to his degree in Arts, and who has successfully taught three years. He must also write an approved thesis on school organization, discipline, etc.

##### 3.—Who may not be a Public School Inspector.

- (1.) No master or teacher of a high school or collegiate institute.
- (2.) No master or teacher in a public school.
- (3.) No trustee of a high school or collegiate institute.
- (4.) No public school trustee.
- (5.) No separate school trustee.

##### 4.—Jurisdiction of County Inspectors.

- (1.) A county inspector may have jurisdiction over not less than 50, or more than 120, public schools.
- (2.) If for counties, in which French or German prevails, he may have charge of not less than 40, or more than 120, schools.
- (3.) Except in the case, as above, of French or German schools, "it shall not be necessary to appoint more than one [inspector] in each riding of a county."

##### 5.—Appointment of Public School Inspectors.

Each county council, or city or town board of public school trustees, is required to appoint a public school inspector for the county, riding, city or town (as the case may be), but such appointment can only be lawfully made "from among those holding the necessary certificates of qualification."

NOTE.—A county council, or city or town board of trustees, is not required to appoint a person to be an inspector who is a resident of the county, city, or

town concerned. A person in any county, who holds the legal "certificate of qualification," may be appointed public school inspector. But no county council or board of trustees can lawfully appoint a person as inspector unless he first presents to it a legal certificate of qualification for the office.

### 6.—Inspectors may be changed in a County.

"In a county where there are two or more county inspectors, the council of such county may, from time to time, change or remove said inspectors from one circuit or riding of the county to another."

NOTE.—The word "circuit" here derives its meaning from the 95th section of the Consolidated Public School Act, which provides that "where there are more than one [High] school in a county, the county council shall have authority to divide the county into as many circuits as there are county [high] schools."

### 7—Do Inspectors require to be appointed Annually. ?

No; the law requires that each county council, or city or town public school board "shall appoint" a legally qualified inspector, who "shall be subject to dismissal at pleasure," or who, in the case of county inspector, may be changed or removed from one part of the county to another; but the law does not otherwise provide for dealing with any appointment made; and it certainly makes no provision for the *annual* appointment of an inspector of any kind who already holds that office.

NOTE.—No practice or custom of a council, or public school board, can be lawfully pleaded as a valid reason why an inspector should be subject to the uncertainty of an *annual* appointment. He may be dismissed at pleasure, (or, if a county inspector, changed to another part of the county), but his appointment cannot be otherwise interfered with.

### 8—An Inspector's Tenure of Office.

(1.) A county inspector may be dismissed:

(a) By the county council appointing him, "at pleasure," (without assigning cause or reason).

(b) By "the Lieutenant-Governor in council" "for misconduct or inefficiency" alone.

(2.) A city or town inspector may be dismissed:

(c) By the public school board appointing him, "at pleasure."

NOTE.—It will be seen from the above that every county, city and town inspector is "subject to dismissal at pleasure" by the council or public school board appointing him, without requiring that body to assign any cause or reason, for such dismissal; while "the Lieutenant-Governor in council" can only dismiss a county inspector "for misconduct or inefficiency." Of course, to dismiss an inspector, without giving some valid reason for doing so, would be justly considered harsh and unjust; and no council or board would likely to do so. It should be borne in mind, however, that the words "at pleasure" originally referred to the exercise of the prerogative of the sovereign to dismiss "at pleasure," or, in other words, to allow the incumbent of an office to hold it "during pleasure," that is, "during the royal pleasure." The phrase has, therefore, a technical meaning, and is generally used as contradistinguished from the phrase "during good behaviour," which limits the exercise of the royal prerogative to dismissal for "misconduct or inefficiency," or other similar cause. A cabinet minister holds

his office from the crown "during pleasure," while a judge holds his office "during good behaviour."

#### 9.—Filling a Vacancy in the Office of Inspector.

(1.) In case of removal from office :—"No inspector dismissed shall be re-appointed without the concurrence of the party who dismissed him."

(2.) In case of the resignation, death, or dismissal by the Governor, of a county inspector, (during the intervals of the meeting of the council), "the warden may appoint [from the list of those legally qualified] a fit and proper person to the office vacated, until the next ensuing meeting of the county council," but he cannot re-appoint the person dismissed without the consent of the governor.

#### 10.—Remuneration of County, City, and Town Public School Inspectors.

The salaries of county public school inspectors are paid jointly by the education department and county council, while those of city and town inspectors are paid wholly by the public school board which appoints them.

#### 11.—Payments to County Public School Inspectors.

A county public school inspector is entitled to the following annual salary and allowances :

(1.) *From the Education Department* :—A "sum not exceeding \$5 per school," or department of a school which (1) is taught by an assistant teacher, (2) in a separate room, (3) and having a register of its own.

(2.) *From the County Council* :—A sum which "shall not be less than \$5 per school per annum, to be paid quarterly."

(3.) "Allowance for travelling expenses" as inspector,—to be paid by the county council.

NOTE.—It is, of course, expected that the county council will also make provision for paying the postage, stationery and other contingent expenses of the inspector's office.

(4.) As a member of the county board of examiners he "shall be entitled to [at least] the same recompense for his time and expenses as is a member of the county corporation for his attendance at county council meetings," to be paid by the county council.

(5.) *Remuneration from other parties*—The county inspector, as an arbitrator between trustees and ratepayers for the selection of a school site, "shall be entitled to the same remuneration per diem for the time thus employed as is a member of the municipal council of his county for his attendance at council meetings," to be paid by whom and when, as may be awarded by the arbitrators. (See No. 6, page 130.)

(6.) As an arbitrator to determine the value of land selected for a school site ;—amount and payment as in No. (5.)

(7.) As an inspector when "engaged in investigating and deciding upon school complaints and disputes;"—amount and payment as in Nos. (5) and (6) above.

**12.—Who shall pay Inspectors in Dispute and Arbitration Cases?**

The law declares "that the parties concerned in [the disputes, complaints, and arbitrations mentioned in Nos. (5) and (6) in the preceding section] *shall pay all the expenses* incurred in [said disputes, complaints and arbitrations] according to decision of the arbitrators and school inspectors respectively."

**13.—Other specific duties of County Inspectors for which special allowance may be made by the County Council.**

The other specific duties which a county inspector is required to perform, and for which no additional remuneration is fixed by law or regulation, but which may be determined by the county council, are as follows:

- (1.) Equalizing annually the assessments in union school sections.
- (2.) Acting as a member of the board of examiners for the admission of pupils to the high schools.
- (3.) Apportioning and paying to teachers of union school sections, not within his jurisdiction, such sums as may be coming to them.

NOTE.—By such union school sections are meant those which have part of their area in the township of one inspector while the school house may be situated in the township of another. The school belongs to the township and county in which the school house is situated.

**II.—POWERS AND DUTIES OF PUBLIC SCHOOL INSPECTORS.**

**14.—County and City Inspectors' Full Time to be Employed.**

Each county and city inspector shall devote the whole of his time during the ordinary office hours, to the duties of his office, except during the school holidays and vacations and his own.

**15.—Duties of City and Town Inspectors.**

City and town inspectors shall perform such duties as devolve upon them by the school law and regulations, with such additional duties as may be required of them by the public school boards, which appoint them. They shall visit the schools as often as directed by the board, and, in their visitations, shall be governed by the general regulations (so far as they apply to city or town schools). They shall also keep one or more regular office hours in each day, as fixed by the board of trustees, and of which public notice shall be given. (See page 161.)

**16.—Inspector to Decide School Election Complaints.**

Each county inspector in the manner indicated below, is required by law to hear and decide upon the following complaints (if made

in writing within twenty days) arising out of rural school section meetings, viz:—

(1.) In regard to a complaint "respecting the mode of conducting the election" of a rural public school trustee, the inspector must "receive and investigate" it, "and according to the best of his judgment confirm it or set it aside, and appoint the time and place for a new election."

NOTE.—It will be observed that in any complaint against the *mode of conducting* a rural school trustee election, the inspector is required to "receive and investigate" it, and *either* confirm it or set it aside and appoint a time and place for a new election. He cannot lawfully "confirm" part and "set aside" part, but must either confirm the whole or set aside the whole, as the case may be.

(2.) As to complaints made in writing within twenty days, either (1) "In regard to the *election* of school trustees, or (2) in regard to *any proceeding* of a school meeting," the inspector is required by law "to receive, investigate and *decide upon*" them. He should not dismiss the complaint, or refuse to entertain it.

(3.) If the proceedings be set aside, a reasonable time should be allowed to permit the parties concerned to appeal to the chief superintendent against the ruling of the inspector, before calling another meeting, or otherwise carrying out the decision of the inspector.

(4.) The decision should be given as soon as possible, but not necessarily within the twenty days.

(5.) A reasonable time may be taken by the inspector to investigate the complaint, and, if he desires it he may apply to the chief superintendent for advice on any doubtful point.

#### **17.—Appeal in Election Cases, &c., to the Chief Superintendent against Inspector's Decision.**

Should any ratepayer object to the inspector's decision, no further proceedings should take place in the matter until an appeal is made to the head of the education department (as provided by law in such cases) and decided.

NOTE.—Should the proceedings and election be set aside, and no appeal be made to the chief superintendent, the inspector, or trustees, if desired by the inspector, should call another meeting for a new election. If no complaint be made to the inspector in writing within twenty days after the meeting, the proceedings (however irregular they may have been) must be held to be valid and binding upon all parties concerned. It should be borne in mind that the complaint (if made at all) must be referred, in the first place to the inspector having jurisdiction, and not to the chief superintendent. The law provides for an appeal from the decision of the inspector in such cases to the chief superintendent. In no case should the complaint, in the first instance, be made to the Education Department; and, in all cases, parties appealing must send the inspector a copy of their appeal, so that he may have an opportunity of sending such explanation as he may deem necessary to that department. (See sec. 24 of this chapter.)

#### **18.—Time of Receiving and Deciding upon School Election Complaints.**

The School Act expressly declares "that no complaint in regard to any election or proceeding at a school meeting shall be entertained



unless made in writing within *twenty* days after the holding of such election or meeting."

NOTE.—The law does not require the inspector to decide upon any school meeting or election complaint within twenty days after the meeting takes place, or within twenty days after the complaint is made to him; but it forbids him to entertain any complaint which is not made to him in writing within twenty days after the meeting takes place, against which, or its proceedings, the complaint is made.

#### **19.—Appeal to Inspector from School Section Auditors.**

The law declares that, if the auditors of school section accounts, "or either of them, object to the lawfulness of any expenditures made by the trustees, they shall submit the matters in difference to such meeting, which may either determine the same, or submit them to the county inspector, whose decision shall be final." The act also provides that "in the case of difference of opinion between the school auditors on any matter in the accounts, it shall be referred to and decided by the county inspector."

NOTE.—The auditors have a right to decide upon the *lawfulness*, and not the expediency, of the expenditure. The trustees are the sole judges of the *expediency* of any expenditure. It is only matters of difference between the auditors themselves as to the *lawfulness* of any expenditure (that is, whether the expenditure is authorized by the school law), which it is necessary to submit for the decision of the school meeting, or subsequently to the inspector. (See sections 10 and 11 of chapter v., of Part I., page 39.)

#### **20. Decide upon all other kind of Complaints.**

Each inspector is authorized "to decide upon any questions submitted to him, which arises between interested parties under the operations of the school law and regulations."

NOTE.—From the foregoing section it will be seen that each inspector's office is constituted a domestic forum for the settlement of all local school questions and disputes which may arise within his jurisdiction. A few general principles, which will be found in the regulations for the education department on the subject, will be found of great service to him in such matters, and secure uniformity of action. These regulations will be found in section 25 of this chapter.

#### **21.—Decide Cases, and give Counsel and Advice.**

The inspector should promptly adjudicate upon all cases submitted to him, after hearing both sides, and give such counsel and advice (in harmony with the school law and regulations) as shall, in his judgment, best promote the interests of the schools, and prevent disputes and litigation in neighbourhoods.

NOTE.—A public officer who is required by law to act in certain cases, according to his judgment or opinion, and subject to penalties for his neglect, is not liable to a party for an omission arising from a mistake or want of skill, while acting in *good faith*.

#### **22.—Inspector may refer Questions to Chief Superintendent.**

The law authorizes each inspector "to decide upon any question submitted to him which may arise" under the School Act; "or if he deems it advisable to refer any question to the chief superintendent."

**23.—Any person may appeal to the Chief Superintendent.**

The law declares that "any aggrieved or dissatisfied party, in any case not otherwise provided for, shall have the right of appeal to the chief superintendent."

**24.—Authority of the Chief Superintendent to Decide Appeals and Settle Differences.**

The School Act declares that "the chief superintendent shall have authority to decide upon all disputes and complaints laid before him, the settlement of which is not otherwise provided for by law, and upon all appeals made to him from the decision of any inspector or other school officer."

**25.—How Appeals to Chief Superintendent of Education may be made.**

All parties concerned in the operations of the school laws, have the right to appeal to the Chief Superintendent of Education, and he is authorized to decide such questions as are not otherwise provided for by law. But for the ends of justice, to prevent delay, and save expense, it will be necessary for any party thus appealing: 1. To furnish the party against whom he may appeal with a correct copy of his communication to the chief superintendent, in order that such party may have an opportunity of transmitting any explanation or answer deemed expedient. 2. To state expressly in the appeal that the opposite party has been thus notified, as it must not be supposed that the chief superintendent will decide or form an opinion on any point affecting different parties, without hearing both sides—whatever delay may at anytime be occasioned in order to secure such hearing. Application for advice in school matters, should in all cases be *first* made to the inspector having jurisdiction in the municipality.

**26.—Other General Powers of the Chief Superintendent.**

The school law also gives the following general powers to the Chief Superintendent of Education:—

(1.) *Prepare Forms and Regulations.*—"To prepare suitable forms, and to give such instructions as he may judge necessary, and proper, for making all reports, and conducting all proceedings under this Act."

(2.) *Application of School Moneys—Deciding Complaints.*—"To see that all moneys apportioned by him are applied to the objects for which they are granted; and for that purpose, and when not otherwise provided for by law, to decide upon all matters and complaints submitted to him, which involve the expenditure of any part of the school fund."

(3.) *Application of Balances of the School Fund.*—"To direct the application of the balances of the school fund apportioned for any year, which may be forfeited according to the provisions of this Act,

towards making up the salaries of teachers in the county to which the same has been apportioned."

(4.) *Disagreement between Roman Catholic School Trustees and Officials.*—"In the event of any disagreement between trustees of Roman Catholic separate schools and inspectors of public schools or other municipal authorities, the case in dispute shall be referred to the equitable arbitrament of the Chief Superintendent of Education in Ontario; subject, nevertheless, to appeal to the Governor in Council, whose award shall be final in all cases"

#### **27.—Powers and Responsibilities of Inspectors under the Statute.**

The School Act of 1871 declares, that each inspector "shall have all the powers in each municipality within his jurisdiction, and be subject to all the obligations conferred or imposed by law upon 'local superintendents,' and which are conferred or imposed by this Act, according to such instructions as may be given to him, from time to time, by the Chief Superintendent of Education."

NOTE.—As inspectors receive one half of their salary through the education department, it was necessary that their responsibility to it should be fixed. The law, therefore, wisely directs (as above) that each inspector's duties shall be performed and his powers exercised "according to such instructions as may be given to him, from time to time, by the Chief Superintendent of Education."

#### **28.—Inspectors to Grant Special Certificates to Teachers.**

The School Law authorizes inspectors "to give to any candidate, *on due examination*, according to the programme authorized for the examination of teachers, a certificate of qualification to teach school within the limits of the charge of the inspector, until (but no longer than) the next ensuing meeting of the board of examiners of which such inspector is a member; but no such certificate shall be given a second time, or be valid if given a second time, to the same person in the same county."

NOTE.—Interim certificates may be given in special cases to candidates who fail at a county board examination. But in all such cases the inspector must have the authority of the county board and the consent of the education department before doing so. He should report the case fully to the department.

#### **29.—Conditions to be observed in giving Special Certificates.**

In granting special certificates inspectors will observe :

- (1.) That they are required to examine all candidates desiring special certificates.
- (2.) That they are not authorized to grant "permits," or endorse as good any previous certificates of the applicant.
- (3.) That the special certificates given can only have the value of those of the third class and be valid "within the limits of the charge of the inspector."

(4.) That under no circumstances can they give a special certificate to a teacher who has already previously received one from any (local superintendent or) inspector in the same county.

(5.) That no certificate can be given to a teacher who has been rejected by the board of examiners, without permission of the board and the concurrence of the Education Department. (See note to previous section.)

NOTE.—This provision of the law was designed to meet the cases of teachers, or other persons desirous of teaching, who might come into the county during the intervals of the meetings of the board of examiners, and who could not otherwise obtain legal authority to teach, before the meeting of the board. Three things are, however, necessary to observe in connection with this provision of the law, viz., (1.) No special or interim certificate can be legally given to a teacher except upon "due examination, according to the programme authorized for the examination of teachers." (2.) No such interim certificate can be lawfully given to the same teacher in the same county by any inspector. (3.) That the law does not authorize inspectors to "endorse" or otherwise seek to legalize certificates given in other counties, or by other parties. See "Note" to section 10, chapter ix., page 65 of Part I.

### **30.—Inspectors may suspend Provincial or County Certificates.**

When an inspector finds it necessary to suspend the certificate of a master or teacher—"for any cause which may appear to him to require it"—he should not do so on the mere report of improper conduct, immorality or incompetency, but he should give the master or teacher due notice of the charge against him, and afford him a full opportunity for defence; and he should also examine carefully into the alleged facts of the case, and, if necessary, visit the school and assure himself personally of their truth before proceeding to suspension.

NOTE.—Officers required by law to exercise their judgment, are not answerable for mistakes in law, or mere errors of judgment, without any fraud or malice on their part.

### **31.—Duty of Inspector in Regard to Suspended Certificates.**

(1.) On the suspension of a teacher's county board certificate, the inspector should give the teacher due notice of the suspension, and of the next meeting of the county board. At that meeting the board is required to "dispose of the case as a majority of the members present think proper."

(2.) On the suspension of a 1st or 2nd class provincial certificate the law requires the inspector to "report the same forthwith to the chief superintendent, notifying in writing the teacher whose certificate is suspended, the reasons of it; and the chief superintendent shall finally decide upon the case."

(3.) On the suspension of any certificate the inspector should at once notify the trustees of the school of the fact, as the law declares that "the cancelling or suspension of a teacher's certificate of qualifi-

cation shall release his school trustees from any obligation to continue him in their employment."

**32.—Inspector to Apportion School Fund according to Average Attendance.**

"Unless otherwise instructed by the Chief Superintendent of Education, the inspector shall apportion among the several school sections their respective portions of the public school fund \* \* \* according to the rates of the average attendance of pupils at each public school (the mean attendance of pupils for each half year being taken) as compared with the whole average number of pupils attending the public schools of each such township."

NOTE.—The school law defines the "school fund" to be "the sum of money apportioned annually by the Chief Superintendent of Education to each county, township, city, town, or village, in aid of public schools, \* \* \* together with at least an equal sum raised annually by local assessment." This, it declares, "shall constitute and be called the public school fund of such county, township, city, town or village."

**33.—Basis on which the Apportionment is to be made.**

The return of average attendance in the trustees' half-yearly reports form the basis for apportioning the school fund to the several public schools of each township. The legislative grant forms the school fund for the first half year, and the municipal assessment the school fund for the second half year.

**34.—Apportionment to be made to every School Section.**

The inspector is required to apportion each half year's school fund to every section, whether a school is in operation in it or not, for that half year. In case there is no school in operation in a section, or the trustees fail to send in a report, the inspector must make an approximate apportionment to the section. When making the apportionment, the attendance of any non-resident pupils is to be reckoned as belonging to the section in which they are actual residents, and not as belonging to the section in which they may attend school. (See section 3, chapter iv., of Part I. of these Lectures, page 34.)

NOTE.—(1.) *Non-resident pupils* are those whose parents or guardians do not reside in the section or school division. Such pupils do not become residents by boarding in the section or division while attending school, or until after the expiration of a year. (This rule does not apply to apprentices, or to parties who move into the section with a view to become *bona fide* residents.)

(2.) A ratepayer in a section or division employing, temporarily, a minor (whose parents or guardians reside outside of the section, &c.) cannot lawfully report such minor in the school census, nor claim to send him as a resident, unless he is duly apprenticed to such ratepayer.

(3.) Adopted children, and orphans having guardians who are *bona fide* residents, and other children who are *bona fide* residents of the school section or division, not having parents or guardians, are not to be admitted until the guardian, adopted parent, friend or person with whom they reside, shall furnish the trustees with satisfactory evidence of such adoption, guardianship or *bona fide* residence.

(4.) Trustees have no authority under the school law to admit any non-resident pupils to their school, except those whose parents or guardians are ratepayers of the section, whether resident or non-resident. No school fees can be charged in a rural school section for any purpose.

**35.—When Apportionment to a School Section may be withheld.**

Although an inspector is required to make an apportionment of the school fund to all the public schools under his jurisdiction, whether entitled to it or not; yet he should not give an order to pay any portion of the fund to a section, the trustees or teacher of which have not complied with the requirements of the law and regulations, and furnished satisfactory reports. (See section 42 of this chapter.) Nor should sections whose trustees—

- (a)—“have neglected to transmit [to the inspector] their return of average attendance [of pupils] for the last preceding half year.
- (b)—have neglected to transmit the yearly report of their school to the inspector.
- (c)—have not observed the public school regulations.
- (d)—permit the use of unauthorized text books in their school.
- (e)—employ a teacher not possessed of a legal certificate of qualification.
- (f)—refuse to comply with the provisions of the school law.

NOTE.—As the school fund is apportioned only on the basis of average attendance, the conditions in the law that each school must be kept open six months of the year virtually ceased to have any force.

**36.—How shall Forfeited Balances be Applied?**

The law authorizes the Chief Superintendent of Education, “to direct the application of the balances of the school fund apportioned for any year, which may be forfeited according to the provisions of this Act, towards making up the salaries of teachers in the county to which the same had been apportioned.” He is also directed “to see that all moneys apportioned by him are applied to the objects for which they are granted; and for that purpose, and when not otherwise provided for by law, to decide upon all matters and complaints submitted to him, which involve the expenditure of any part of the school fund.”

**37.—Entire School Fund must be Paid to Teachers.**

The Act declares that “no part of the salaries of the chief superintendent, school inspectors, nor of any other persons except teachers employed, or of any expenses incurred in the execution of this Act, shall be paid out of the said public school fund, but such fund shall wholly, and without diminution, be expended in the payment of teachers’ salaries.”

NOTE.—Inspectors will see that this fund suffers no diminution on account of (1) collector's fees, (2) per centage to treasurer, (3) bank charges, (4) depreciated currency, or (5) American silver. None of these charges can be lawfully borne by the school fund.

### 38.—How shall Union School Sections be Paid?

"The school inspector of adjoining townships shall determine the sums to be paid from the public school fund of each township in support of the schools of union school sections consisting of portions of such townships; and shall also determine the manner in which such sums shall be paid; but in the event of one person being inspector of the townships concerned, he shall act in behalf of such townships. In the event of the school inspectors thus concerned not being able to agree as to the sum to be paid to each such township, the matter shall be referred to the warden of the county for final decision."

NOTE.—The trustees of union school sections are required to transmit exact copies of their half yearly (but not of their yearly) return to the inspector of each township out of which their union is formed—distinguishing the pupils residing in each township.

### 39.—Can the School Fund be Paid to a Trustee?

"It cannot. All cheques for the school fund apportioned to a section, must be made payable to the (qualified) teacher or his order, and to no other person; and no cheque can be given to such teacher except on an order signed by a majority of the trustees of the school section, and attested by a lawful corporate seal, and then only for the time during which the teacher had held a legal certificate of qualification, not cancelled, suspended, recalled or expired. In giving cheques to male teachers, the half-yearly payment of two dollars to the Superannuated Teachers' Fund (for which the inspector is responsible) must be deducted. (See section 8 and 9, chapter ix. of Part I. of these lectures, page 65.)

NOTE.—Trustees sometimes omit the giving of such orders to "teachers employed by them," and thus designedly or unwittingly evade the law. They generally do so for one of four reasons, viz.: (1) if they have advanced the money to the teacher themselves; or, (2) have paid him by orders on a store; or (3) if they have employed a teacher without the legal qualifications; or (4) if they wish to aid a male teacher to evade paying the half-yearly superannuation money. In all these cases inspectors should remonstrate with trustees, and in case of a repetition of the evasion, withhold the grant to the section. Every order should be made out in favour of the teacher employed during the time for which it is issued.

### 40.—Who is Responsible for the Blank Forms of Trustees' Returns?

Inspectors are responsible for obtaining blank forms of reports from the educational department, through the county clerks, and supplying them to the public schools, and also for the prompt despatch of the blank form of yearly and half-yearly returns directly to the trustees. The trustees are equally responsible (in addition to

the penalty imposed by law,) for the delivery of the returns and reports to their inspector, within ten days after the close of the year or half year.

NOTE.—The school law does not *require* the education department to furnish registers or blank forms to the trustees, but for the convenience of all parties concerned, it has done so gratuitously.

**41.—What Check has the Inspector on incorrect Returns ?**

The trustees' half-yearly return of the pupils' names, and number of days on which they attended during each month, will be a check against false or exaggerated returns ; as the inspector can, in his visit to any school, take the return with him, compare it with the school register, and make any further inquiries he may deem necessary. He should also, at his visit to the school, take notes in his book of the school attendance, &c.

**42.—Inspectors must decide as to "Satisfactory" Returns.**

The inspector should see that the aggregate attendance of pupils at each school is correctly added up, and the result divided by the divisor for the half year ; also, that no lost time is, under any circumstances, made up by teaching on Saturdays, or other holidays, or vacations. After having examined and tested the correctness of the return, the inspector should file away and carefully preserve it, so that it may be handed over, with other school documents, to his successor, when he retires from office.

**43.—Absence of a Teacher, visiting other Schools, may be allowed.**

With the permission of the inspector, teachers may employ certain days in the year in visiting other schools. In order that the school may not lose a corresponding proportion of the school fund, the inspector is authorized to add a proportionate amount of average attendance for time so employed, or by using a smaller divisor.

**44.—Inspector responsible for the Payments to Teachers' Superannuation Fund.**

The School Act of 1871 declares that "each inspector of schools is authorized and *required* to deduct [two dollars] half yearly from any payments made by him to any male teacher under his jurisdiction, and transmit the same to the education department." He is also required to see that the sum of two dollars, payable semi-annually to the Superannuated Teachers' Fund, by each male teacher, is deducted from such teacher's half yearly salary, and transmitted promptly with the names of the teachers, and other information required, to the Education Department, in each January and July. This may be done in registered letters, or by deposit to the credit of the Chief Superintendent of Education in any of the government banks. In this latter case the deposit certificate should be transmitted, with the



list of names, without delay, to the education department. (See section 39 above.)

**45.—Inspectors may permit Teachers to visit other Schools.**

The inspector may permit a master or teacher to be absent two of the ordinary teaching days in each half year, for the purpose of visiting and observing the methods of classification, teaching and discipline practised in other schools than that in which he or she teaches; and such visit, with the name of the school or schools visited, shall be duly reported by such master or teacher to the inspector; but such permission shall not be given by the inspector if the absence of the teacher will be, in his judgment, injurious to the interests of the school; nor shall this permission be granted to any master or teacher who fails to report, or who has employed the time heretofore given to him otherwise than in visiting schools as authorized by this section.

NOTE.—Each high and public school master and teacher must give at least three days' notice to the trustees; and, in addition, the high school master must communicate with the education department, so that he may not be absent during the visits of the inspector to his school. In order that no loss of apportionment may accrue to any school in consequence of the master's absence under this regulation, a proportionate amount of average attendance will be credited to the school for the time so employed by the teacher; but under no circumstance can lost time be made up by teaching on any of the prescribed holidays or half-holidays, nor will such time be reckoned by the department, or be allowed by the inspector.

**46.—Summary of the duties of a County Public School Inspector.**

The school law of 1871 declares that each inspector "shall have all the powers in each municipality within his jurisdiction, and be subject to all the obligations conferred or imposed by law upon 'local superintendents,' and which are conferred or imposed by this act, [but, in either case] according to such instructions as may be given to him, from time to time, by the Chief Superintendent of Education." Under such conditions each public school inspector is authorized and required to perform the following duties, viz.:

(1.) "Have the oversight of all public schools in the townships and villages within the county."

(2.) "Receive and investigate complaints in regard to school trustees' elections, and either confirm or set aside such elections, and order a new one to be held."

(3.) "Apportion among the several school sections their respective portions of the public school fund apportioned to the townships within the limits of his charge \* \* \* according to the ratio of the average attendance of pupils," etc.

(4.) "Give to any qualified teacher (but to no other) on the order of the trustees of any school section, a cheque upon the county treasurer or sub-treasurer for any sum of money apportioned and due to such section," etc.

(5.) "Not give an order to pay money to any school section whose trustees fail to send in a satisfactory return, or who do not comply with the law and regulations.

(6.) retain two dollars each half year from any amount payable to any male public school teacher in the section.

(7.) "Visit each public and separate school and departments of schools in townships and villages, within his jurisdiction, twice in each year, (unless oftener required by the county council), viz., once between the 1st of April and 1st of October, and once between the 1st of October and 1st of April;" or at such other convenient periods of the year as may be fixed upon.

(8.) "Examine, at each half-yearly visit, the state and condition of the school," as required in a form furnished by the Chief Superintendent.

(9.) "Deliver in each of his school sections, at least once a year, a public lecture on some subject connected with the objects, principles, and means of practical education," etc.

(10.) "Do all in his power to persuade and animate parents, guardians, trustees, and teachers to improve the character and efficiency of the public schools, and to secure the sound education of the young generally."

(11.) "See that all the schools are managed and conducted according to law," and "the official regulations."

(12.) "Prevent the use of unauthorized text books in the schools, and to recommend the use of authorized books in each school."

(13.) "Acquire and give information as to the manner in which authorized [school text] books can be obtained, and the economy and advantage of using them."

(14.) "Attend [and, as selected, preside at] the meetings of the board for the examination of teachers, and affix his signature to each legal certificate of qualification."

(15.) "Meet to confer with the Chief Superintendent of Education at such time and place as he may appoint, when making official visits to the county."

(16.) "Call a meeting [and attend it] of the reeves and inspectors authorized to form and alter [rural] union school sections," or union school sections of village or town and parts of townships."

(17.) "Transmit to a township clerk a copy of the resolution by which a union school section is formed or altered."

(18.) "With the reeves, equalize the assessment" of union school sections.

(19.) "Decide upon any questions submitted to him which arise between interested persons under" the school laws.

(20.) "Submit any question [arising under the school laws] (if he deem it advisable) to the Chief Superintendent of Education."

(21.) "Give any such advice [at his half-yearly visitation] (and at other times) as he may judge proper."

(22.) Examine candidates and, if competent, give to them special certificates, which shall be valid until the next ensuing meeting of the board of examiners, but no longer; but such certificates shall not be given to any teacher a second time in the same county.

(23.) Suspend, "for any cause which may appear to him to require it," the provincial, county or special certificate of any teacher of a public or separate school within his jurisdiction, giving due notice to the trustees and teacher concerned, of the reasons for the suspension and (in the case of a county certificate) notice of the day of meeting of the county board of examiners. In the case of the holders of provincial certificates, the inspector is to report the circumstances fully to the Chief Superintendent who "shall finally decide upon the case."

NOTE.—Officers required by law to exercise their judgment are not answerable for mistakes in law, or mere errors in judgment, without any fraud or malice. See section 11, chapter ix., page 66, Part I, also clause (6), section 3, page 15, Part I.

(24.) Upon complaint made, to decide upon the lawfulness or regularity of the proceedings of any annual or special school meeting and confirm or set them aside, subject to appeal of the Chief Superintendent.

(25.) Upon reference being made to him by the auditors of trustee school section accounts, "in case of difference of opinion between them on any matter in the accounts," to decide such matter.

(26.) To "determine with the other inspectors (as the case may be) the sums to be paid from the school fund of each township in support of the schools of union sections," and the manner in which such sums shall be paid. In case the inspectors concerned shall not be "able to agree as to sum to be paid \* \* \* the matter shall be referred to the warden of the county for final decision."

(27.) To attend the arbitrations required to be held:

(1) Between trustees and a public school meeting in regard to the choice of a public school site, or

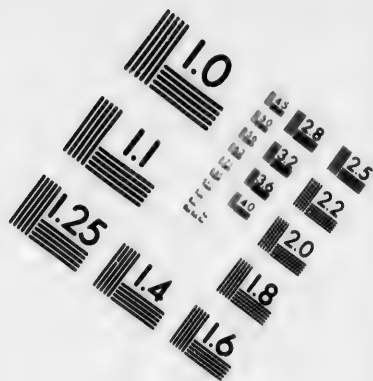
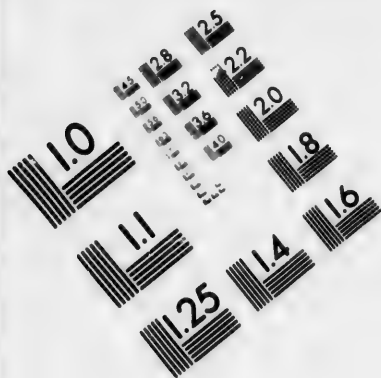
(2) Between trustees and the owner of a selected school site. See page 128.

(28.) To "act in accordance with the regulations and instructions provided for his guidance."

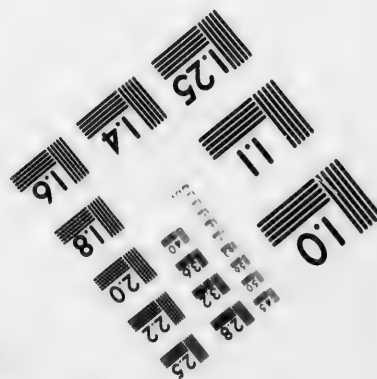
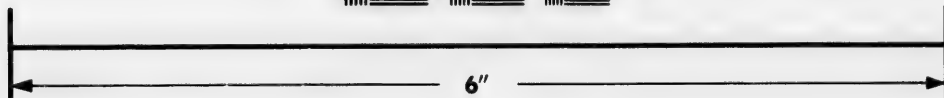
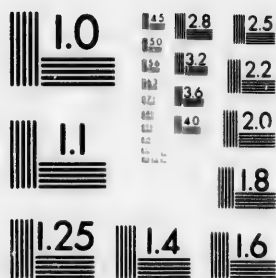
(29.) To "give any information in his power, when required, to the Chief Superintendent of Education, respecting any public school matter within his jurisdiction."

(30.) "To furnish the county auditors, when required, with the trustees' orders as the authority for his cheque on the county treasurer or sub-treasurer for school moneys."

(31.) "To make a return (on receipt of the information) to the clerk of the municipality and to the trustees of the school section concerned, of the names of the supporters, of Protestant or coloured separate schools.



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(32.) "To report annually or oftener as required to the Chief Superintendent, according to the form prescribed by the Chief Superintendent."

(33.) On retiring from office to hand over to his successor "copies of his official correspondence and all school papers in his custody."

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## CHAPTER XVIII.

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### POWER AND AUTHORITY OF AN INSPECTOR IN THE SCHOOL.

#### 1.—Visitation of Separate Schools by the County Inspector.

The county inspector shall visit every public and separate school under his jurisdiction at least once during each half year. He shall devote on an average at least half a day to the examination of the classes and pupils in each school, and shall record the result of such examination in a book to be kept for that purpose. He shall also make enquiry and examination, in such manner as he shall think proper, into all matters affecting the condition and operations of the school, the results of which he shall record in a book, and transmit it, or a copy thereof, annually, on completing his second half-yearly inspection, to the education department; (but he shall not give any previous notice to the teacher or trustees of his visit.)

NOTE.—See chapters ix., of the first part of these lectures, pages 63-66. Also the regulations on page 61.

#### 2.—Authority of an Inspector while in a School.

The authority of an inspector in a school while visiting it, is supreme; the masters, teachers and pupils are subject to his direction; and he shall examine the classes and pupils, and direct the master or teachers to examine them, or to proceed with the usual exercises of the school, as he may think proper, in order that he may judge of the mode of teaching, management and discipline, in the school, as well as of the progress and attainments of the pupils.

NOTE.—As a public officer, charged with the duty of inquiring into and reporting upon the actual condition of a school, the inspector requires all the authority and freedom which the foregoing secures to him. He should be in a position at any time to ascertain all the facts relative to any school. Hence he is publicly clothed by the school law with the necessary authority to do so "without let or hindrance" from any one.

#### 3.—An Inspector's Procedure in the Visitation of Schools?

NOTE.—The personal remarks relative to the inspector's treatment of a teacher, are merely suggestions, and are to be observed in the manner which the inspector's good taste and judgment would dictate.

On entering a school, with a view to its inspection, and having courteously introduced himself to the teacher (if a stranger), or, if otherwise, having suitably addressed him, the inspector shall :

(1.) Note in the inspector's book, the time of his entrance, and on leaving, the time of departure from the school.

(2.) See whether the business going on corresponds with that assigned to that particular hour on the time table, and generally whether the arrangements which it indicates agree with the prescribed programme of studies, and are really carried out in practice. If not, he should at once privately notify the master or teacher of the omission, and the penalty for neglect to observe the regulations.

(3.) Examine the general register, and the teacher's register, and other school records, and take notes of the attendance of pupils, number of classes in the school at the time of his visit, &c.

(4.) Observe the mode of teaching, the management of the school, and generally its tone and spirit ; also whether the bearing, manner and language of the teacher, his authority over the pupils, and their deportment at the time of his visit are satisfactory.

#### **4.—The Inspector shall see to the Standing of Pupils in the School.**

In his intercourse with masters and teachers, and during his visit to their schools, the inspector should treat them with kindness and respect, counselling them privately on whatever he may deem defective or faulty in their manner and teaching ; but by no means should he address them authoritatively, or in a fault-finding spirit, in the presence or hearing of the pupils.

NOTE.—See note to next preceding section.

#### **5.—An Inspector's Intercourse with Teachers and Pupils.**

The inspector should, on visiting a school, especially see that every pupil belongs to only one of the six classes in the school ; that none are permitted to devote attention to one subject to the neglect of the others prescribed. The test of each pupil's standing in the school and his right to be in a particular class, should be his knowledge of spelling, grammar and arithmetic. If behind in these subjects the inspector must place the pupil in the (proper) lower class.

NOTE.—The inspector should take the responsibility of directing the teacher (should he hesitate) to put back a pupil who has been found, on examination, to be in a class too advanced for him.

#### **6.—Inspector to see to the Attendance of Children at School.**

The inspector should see that the provisions of the third section of the School Act of 1871, in regard to the right of every child in the municipality under his jurisdiction to attend some school, are not allowed to remain a dead letter ; but he should, where necessary, frequently call attention to the subject.

### 7.—School Accommodation—Air and Ventilation.

One of the most important duties of the public school inspector, in his half-yearly visitations to the school, is to see that the provisions of the statute in regard to "school accommodation" is complied with. He should see especially if there is sufficient space for the pupils: that there is at least the prescribed quantity of air provided for in the school room, and that the ventilation of the room (especially in the hot weather and winter) is satisfactory. The subjects of examination and inquiry on the part of the inspector in his visitations, should be as follows:—

(1.) The materials, dimensions and plan of the building; its condition; how lighted, warmed and ventilated; if any class rooms are provided for the separate instruction of part of the children; if there is a lobby, or closet, for hats, cloaks, bonnets, book-presses, &c.; how the desks and seats are arranged and constructed; what arrangements for the teacher; what play ground is provided;\* what gymnastic apparatus (if any); whether there be a well, and proper conveniences for private purposes; and if the premises are fenced or open on the street or road; if shade trees and any shrubs or flowers are planted.

NOTE.—In his inquiries in these matters, the inspector is especially directed to see whether the law and regulations have been complied with in regard to the condition of the school house, (should he discover remissness in any of them, he should at once call the attention of the trustees to it, before withholding the school fund from the section, with a view to its remedy before the next half-yearly visit.)

(2.) *Space for Air.*—Whether the required space of nine square feet for each pupil, and the average space for one hundred cubic feet of air for each child have been provided for in the construction of the school house and its class rooms.†

(3.) *Well; Proper Conveniences.*—Whether a well or other means of procuring water is provided; also, whether there are proper conveniences for private purposes of both sexes on the premises; and whether the regulations in regard to them, contained in division ii. of chapter ii., of the first part of these lectures, page 16, are observed.

NOTE.—Should section 12 of chapter ii., part i. of these lectures, not be acted on, the inspector should call the attention of the trustees to it. (See page 19.)

\**Size of School Grounds.*—The school grounds, wherever practicable, should, in the rural sections, embrace an acre in extent, and not less than half an acre, so as to allow the school house to be set well back from the road, and furnish play grounds within the fences. A convenient form for school grounds will be found to be in an area of ten rods front by 16 rods deep, with the school house set back four or six rods from the road. The ground should be strongly fenced, the yard and out-houses in the rear of the school house being invariably separated by a high and tight board fence; the front ground being planted with shade trees and shrubs. For a small school, an area of eight rods front by ten rods deep may be sufficient, the school house being set back four rods from the front.

†*Ventilation* becomes easy as soon as it is known that it is embraced in these two essential operations, viz: 1st, to supply fresh air; 2nd, to expel foul air. It is evident that fresh air cannot be crowded into a room unless the foul air is permitted to pass freely out; and certainly the foul air will not go out unless fresh air comes in to fill its place. It is useless to open ventilating flues when there is no means provided to admit a constant supply of fresh air from without.

*Temperature.*—In winter the temperature during the first school hour in the forenoon or afternoon, should not exceed 70°, nor 60° during the rest of the day.



## CHAPTER XIX.

## CITY AND TOWN INSPECTORS.

**1.—City and Town Inspectors are Provincial Officers.**

Previously to 1871, public school inspectors, (formerly local superintendents,) in cities and towns, were purely local officers. They derived the whole of their powers from the board of trustees, which appointed them, and none whatever from the school law. Now it is otherwise. Their powers are now derived from statutes, with such additional duties as may be required by the board of trustees to be performed by them. This appointment is during "good behaviour," as explained in section 8, chapter xvii., p. 143.

**2.—City and Town Inspectors' Full Time to be Employed.**

Each city and town inspector shall devote the whole of his time, during the ordinary office hours, to the duties of his office, except during the school holidays and vacations and his own.

**3.—Duties of City and Town Inspectors.**

City and town inspectors shall perform such duties as devolve upon them by the school law and regulations, with such additional duties as may be required of them by the public school boards, which appoint them. They shall visit the schools as often as directed by the board, and, in their visitations, shall be governed by the general regulations (so far as they apply to city or town schools). They shall also keep one or more regular office hours in each day, as fixed by the board of trustees, and of which public notice shall be given.

NOTE.—Sections 2, 3, 5, 7, 8, 10, and part of 11, of chapter xvii., of Part ii., of these lectures, apply to city and town inspectors. (See pages 142-144.) They do not therefore require to be repeated here.

**4.—Summary of the Powers and Duties of Inspectors in Cities and Towns.**

In addition to the foregoing duties, the inspectors of public schools in cities and towns are expected to perform the following ones :

(1). *Custodian of School Property.*—He (under the direction of the proper committee) shall be the special custodian of all the chattel property and effects of the school board in use in the several schools; and it shall be his duty to see that the same are used with care, and are properly preserved. To this end he shall hold masters and teachers to a strict accountability.

(2). *Attend Committees.*—He shall attend and advise, when requested, with any standing or special committee of the school board, in respect

to matters committed to them, and shall perform such duties in respect to such matters as may be prescribed by the board.

(3). *Report on School Fixtures.*—He shall report from time to time to the school board (or committee) what furniture and school fixtures are necessary for the public schools, and what, in his opinion, is the proper kind of such furniture and fixtures to be procured for any school, and best adapted for use therein; and the board (or committee), if they concur in the recommendation of the inspector, shall direct him to procure the same, and cause it to be placed in the school house where it is required.

(4). *Report on Alterations, &c.*—The inspector shall also report to the board (or committee) from time to time what alterations, if any, are, in his opinion, necessary to be made in the internal arrangement of the school buildings; and the board (or committee) shall, if they approve such change, cause the same to be made.

(5). *Use of School House, &c.*—He shall see that the school buildings are not used for any other purpose than the accommodation of the public schools, except by special permission of the board.

(6). *Teachers' Meetings.*—He shall have the power to convene the masters and teachers, or such of them as he may designate, in special meetings, the members of the board (or committee) having always the right of being present at such meetings, if they desire it.

(7). *Grant Special Certificate.*—He may, as indicated on page 149, grant special and interim certificates to public school teachers.

(8). *Suspend Teacher Certificates.*—He shall have authority to suspend, for any cause which he may deem sufficient, the certificate of any teacher within his jurisdiction. (See page 150.)

NOTE.—Though the summary only of the powers and duties of city and town inspectors is given here, yet the further explanation of those powers and duties will be found in sections 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 40, 41, 42, 43, 44 and 45 of chapter xvii., Part ii. of these lectures. These sections apply to city and town as well as to county inspectors. The whole of chapter xviii. also applies to city and town inspectors.

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## CHAPTER XX.

### GENERAL PROVISIONS OF THE LAW APPLICABLE TO ALL SCHOOLS.

#### 1.—All Public Schools shall be Free.

All "public schools shall be free schools ; and the trustees of school sections, and the municipal councils of cities, towns, villages and townships shall, in the manner now provided by law, levy and collect the rate upon the taxable property of the school division or municipality (as the case may be), to defray the expenses of such schools, as determined by the trustees thereof."—Sec. 1, School Act of 1871.

NOTE.—The manner of raising funds by rural school trustees is pointed out on pages 21, 25 and 33 of Part I. of these Lectures. The mode of obtaining moneys by city, town and village boards is pointed out on pages 112 and 132.

#### 2.—Right of Children to be Educated—Compulsory Attendance.

"Every child, from the age of seven to twelve years inclusive, shall have the right to attend some school or be otherwise educated for four months in each year ; and any parent or guardian who does not provide that each child between the ages aforesaid under his care shall attend some school, or be otherwise educated, as thus of right declared, shall be subject to the penalties hereinafter provided by this Act : Provided, nevertheless, that any pupil who shall be adjudged so refractory by the trustees (or a majority of them) and the teacher that his presence in the school is deemed injurious to the other pupils, may be dismissed from such school, and, where practicable, removed to an industrial school : Provided that nothing herein shall be held to require any Roman Catholic to attend a public school, or to require a Protestant to attend a Roman Catholic school."—Sec. 3, Act of 1871.

NOTE.—The regulations provide that "the inspector should see that the provisions in the third section of the School Act of 1871, in regard to the right of every child in the municipality under his jurisdiction to attend some school, are not allowed to remain a dead letter ; but he should, where necessary, frequently call attention to the subject."—Sec. 8 of Inspectors' Regulations.

#### 3.—Penalty for Non-attendance at some School.

"It shall be competent for the police magistrate of any city or town, and for any magistrate in any village, township or town where there is no police magistrate, to investigate and decide upon any complaint made by the trustees, or any person authorized by them, against any parent or guardian for the violation of this Act, and to impose a

fine not exceeding five dollars for the first wilful offence, and double that penalty for each subsequent offence; which fine and penalty shall be enforced as provided in the one hundred and fortieth section of the Consolidated School Act: Provided, nevertheless, that the police magistrate or justice shall not be bound to, but may in his discretion forego to issue the warrant for the imprisonment of the offender, as in said section is provided."—Sec. 4, Act of 1871.

NOTE.—For 140th section, referred to, see page 173.

#### **4.—Further discretion of Magistrate to enforce Penalty.**

In all cases, "it shall be the duty of the [police] magistrate [or "any magistrate" "where there is no police magistrate"] to ascertain, as far as may be, the circumstances of any party complained of, and whether such alleged violation has been wilful, or has been caused by extreme poverty, or ill-health, or too great a distance from any school; and in either of the latter cases, the magistrate shall not award punishment, but shall report the circumstances to the trustees of the division in which the offence has occurred."—Sec. 4, Act of 1871.

#### **5.—A Resident in one Section sending his Children to another Section.**

"Any person residing in one school section [city, town, or village] and sending a child or children to the school of a neighbouring school section [city, town, or village], shall, nevertheless, be liable for the payment of all rates assessed [on his property] for school purposes in the section in which he resides, as if he sent his child or children to the school of such section; and such child or children shall not be returned as attending any other than the school of the section in which the parents or guardians of such child or children reside."—Section 126, Consolidated School Act.

NOTE.—For full explanation of the law relating to non-residents, see chap. iv. of Part I. of these sections, page 34.

#### **6.—Exception as to Separate Schools and Non-resident Ratepayers.**

The law declares that the foregoing section "shall not apply to persons sending children to or supporting separate schools; or prevent any person who may be taxed for public school purposes on property situate in a different school section from that in which he resides, from sending his children to the school of the section in which such property may be situate, on as favorable terms as if he resided in such section."—Section 126, Consolidated Act.

NOTE.—Since the "ratebill" system has been abolished, no fees can be charged to non-residents; nor have any non-residents the right to send their children to a school to the support of which they are not ratepayers. See, however, chapter page 34.

**7.—Foreign Books not to be used without the permission of the Council of Public Instruction.**

"No person shall use any foreign books in the English branches of education, in any model or public school, without the express permission of the Council of Public Instruction; and no portion of the legislative school grant shall be applied in aid of any public [or separate] school in which any book is used that has been disapproved by the Council of Public Instruction, and public notice given of such disapproval."—Section 128, Consolidated Act.

**8.—Pupils not to be required to observe Religious Exercises objected to by their Parents.**

"No person shall require any pupil in any such school to read or study in or from any religious book, or to join in any exercise of devotion or religion objected to by his or her parents or guardians; but within this limitation, pupils shall be allowed to receive such religious instruction as their parents and guardians desire, according to any religious regulations provided for the government of public schools."—Section 129, Consolidated Act.

NOTE.—The teacher of each public school is required to hear the pupils of the school repeat the Ten Commandments once a week.

**9.—Legislative School Grant payable on the First day of July in each Year.**

"The sum of money apportioned annually by the Chief Superintendent of Education to each county, township, city, town or village, in aid of public schools therein respectively, shall be payable on or before the *first day of July* in each year, to the treasurer of each county, city, town or village, in such way as the Governor-in-Council from time to time directs."—Sec. 123, Consol. Act.

**10.—Legal Definition of the Public "School Fund."**

The legislative school grant, "together with at least an equal sum raised annually by local assessment, shall constitute and be called the public school fund of such county, township, city, town or village."—Sec. 123, Consol. Act.

**11.—Restriction as to the Application of the "School Fund."**

The Act provides that "no part of the salaries of the chief superintendent, school inspectors, nor of any other persons except teachers employed, or of any expenses incurred in the execution of this Act, shall be paid out of the said public school fund, but such fund shall wholly and without diminution be expended in the payment of teachers' salaries, as herein provided."—Sec. 123, Consol. Act. (See sec. 10, page 84.)

**12.—Conditions of Municipalities receiving Share of Grant.**

"No county, city, town or village shall be entitled to a share of the legislative school grant without raising by assessment a sum at least equal (clear of all charges for collection) to the share of the said school grant apportioned to it; and should the municipal corporation of any county, city, town or village raise in any one year a less sum than that apportioned to it out of the legislative school grant, the chief superintendent of education shall deduct a sum equal to the deficiency from the apportionment to such county, city, town or village, in the following year."—Sec. 124, Consol. Act.

NOTE.—See page 82, note to section 37, on page 153.

**13.—Conditions of paying the School Fund to individual Schools.**

"No public or high school shall be entitled to share in the fund applicable to it, unless it is conducted according to the regulations provided by law."—Sec. 37, Act of 1871.

NOTE.—See also sections 17-19, p. 171, of the next chapter, and see page 152.

**14.—Annual payment to Superannuated School Teachers' Fund.**

"Each male teacher of a public school holding a certificate of qualification under the School Acts of this Province shall, and each such female teacher may, pay into the fund for the support of superannuated school teachers the sum of four dollars annually; and each inspector of schools is hereby authorized and required to deduct one-half of such sum semi-annually from any payments made by him to any male teacher under his jurisdiction, and transmit the same to the Education Department: Provided always, that any teacher retiring from the profession shall be entitled to receive back from the chief superintendent one-half of any sums thus paid in by him to the fund: And provided further, that on the decease of any teacher, his wife or other legal representative shall be entitled to receive back the full amount paid in by such teacher, with interest at the rate of seven per centum per annum."—Sec. 43, Act of 1871. (See sec. 8, page 65, and sec. 44, page 154.)

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## CHAPTER XXI.

## VARIOUS PENAL CLAUSES OF THE STATUTES.

**1.—Penalty on Secretary-Treasurer or Trustee for refusing to account.**

"If any secretary-treasurer appointed by the [public or separate] school trustees of any school section, or any person having been such secretary-treasurer [or any trustee], has in his possession any books, papers, chattels or moneys, which came into his possession as such secretary-treasurer [or trustee], and wrongfully withholds or refuses to deliver up or to account for and pay over the same or any part thereof to the person and in the manner directed by a majority of the school trustees for the school section then in office, such withholding or refusal shall be a misdemeanor."—Sec. 130, Consol. Act. (See chapter iii., page 23, of these Lectures.)

**2.—Mode of proceeding in the case.**

"Upon application to the judge of the county court, by a majority of such trustees [or any two ratepayers], supported by their affidavit made before some justice of the peace, of such wrongful withholding or refusal, such judge shall make an order that such secretary-treasurer, or person having been such, or trustee, do appear before him at a time and place to be appointed in the order. Any bailiff of a division court, upon being required by such judge, shall serve such order personally on the party complained against, or leave the same with a grown-up person at his residence. At the time and place so appointed, the judge, being satisfied that such service has been made, shall, in a summary manner, and whether the party complained of does or does not appear, hear the complaint; and if he is of opinion that the complaint is well founded, such judge shall order the party complained of to deliver up, account for, and pay over the books, papers, chattels or moneys as aforesaid by a certain day to be named by the judge in the order, together with such reasonable costs incurred in making the application as the judge may tax. In the event of a non-compliance with the terms specified in such order, or any or either of them, the judge shall order the said party to be forthwith arrested by the sheriff of any county in which he may be found, and to be committed to the common gaol of his county, there to remain without bail until such judge be satisfied that such party has delivered up, accounted for or paid over the books, papers, chattels or moneys in question, in the manner directed by the majority of the trustees as aforesaid. Upon proof of his having so done, such judge shall make an order for his discharge, and he shall be discharged accordingly. No such proceed-

ing shall impair or affect any other remedy which the said trustees may have against such secretary-treasurer, or person having been such, or his sureties."—Secs. 131-136, Consol. Act. (See page 23.)

**3.—Certain parties personally responsible in case of lost School Fund.**

"If any part of the public school fund [or moneys] be embezzled or lost, through the dishonesty or faithlessness of any party to whom it has been entrusted, and proper security against such loss has not been taken, the person whose duty it was to have exacted such security shall be *personally responsible* for the sums so embezzled or lost, and the same may be recovered from him by the party entitled to receive the same by action at law in any court having jurisdiction to the amount, or by information at the suit of the crown."—Sec. 137, Consol. Act. (See (B) of sec. 8, chapter i. of these Lectures, page 11.)

**4.—Trustees' accountability for School Moneys, &c.**

"The one hundred and thirtieth and seven following sections of the Consolidated School Act, passed in the twenty-second year of the reign of Her Majesty, and chaptered sixty-four, shall apply to every school trustee or other person, into whose hands any school moneys or school property shall come, and who neglects or refuses to account for, or deliver up the same when called upon by competent authority to do so; and the county judge, upon application of any two rate-payers in a school section or division, supported by their affidavit of the facts made before a magistrate, shall have the same jurisdiction in the case, as he has in that of a secretary-treasurer, by the said sections of the Consolidated School Act; provided always, that it shall be the duty of school trustees to exact security from every person to whom they entrust school money, or other school property, and to deposit such security with the township council for safe keeping."—Sec. 46, Act of 1871. (See sections 7-9, page 38, 39, Part I. of these Lectures, and sections 12-14, Part II., page 135.)

**5.—Penalty for False School Reports and Registers.**

"If any trustee of a public school knowingly signs a false report, or if any teacher of a public school keeps a false school register, or makes a false return, with the view of obtaining a larger sum than the just proportion of school moneys coming to such school, such trustee or teacher shall, for each offence, forfeit to the public school fund of the township, the sum of twenty dollars, for which any person whatever may prosecute him before a justice of the peace, and for which he may be convicted on the oath of one credible witness other than the prosecutor; and if, upon conviction, the penalty is not forthwith paid, the same shall, under the warrant of such justice, be levied with costs by distress and sale of the goods and the chattels of



the offender ; and such penalty, when so paid or collected, shall by such justice be paid over to the said public school fund ; or the said offender may be prosecuted and punished for the misdemeanor."—Section 138, Consolidated Act. (See section 13, chapter ix. page 66, and section 16, chapter xvi., page 137, of these Lectures.)

**6.—Penalty on Trustees Refusing Information, etc., to Auditors.**

"If the trustees, or their secretary in their behalf, refuse to furnish the auditors, or either of them, with the papers of information in their power, and which may be required of them, relative to their school accounts, the party refusing shall be guilty of a misdemeanor, and upon prosecution by either of the auditors, or any ratepayer, be punished by fine or imprisonment, as provided by the one hundred and fortieth section of the said Consolidated Public School Act, page 173." (See the one hundred and thirtieth and seven following sections of the Act, page 167 ; also sections 6-9, page 38, of these Lectures.)

**7.—Trustees Personally Responsible for Moneys Lost.**

"The trustees of each school section shall be personally responsible for the amount of any school moneys forfeited by or lost to such school section in consequence of their neglect of duty during their continuance in office ; and the amount thus forfeited or lost shall be collected and applied in the manner provided by the twenty-first and twenty-third sections of this Act," page 170. (See also the following twentieth clause of the twenty-seventh section, and the one hundred and thirtieth and seven following sections of this Act, page 167, section 31, Consolidated Act. See section 8, page 11 ; section 9, page 39 ; section 13, page 84 ; and section 15, page 136, of these Lectures.)

**8.—Personal Responsibility of Trustees in case of neglect to exercise Corporate Powers.**

Trustees are required "to exercise all the corporate powers vested in them by this Act, for the fulfilment of any contract or agreement made by them ; and in case they or any of them wilfully neglect or refuse to exercise such powers, the trustee or trustees so neglecting or refusing shall be personally responsible for the fulfilment of such contract or agreement," clause 20, section 27, Consolidated Act. (See decision (1) in section 9, page 13, of these Lectures.)

**9.—Penalty for Delaying Yearly Report.**

"In case the trustees of any school section neglect to prepare and forward the annual report to their inspector by the thirty-first day of January in each year, each of them shall, for each week after such thirty-first day of January, and until such report has been prepared and presented, forfeit the sum of five dollars, to be sued for by such

inspector, and collected and applied in the manner provided by the twenty-first section of this Act," below. Section 28, Consol. Act.

**10.—Penalty for Delaying Half-Yearly Report.**

"In case trustees neglect to transmit a verified statement of the average attendance during each preceding six months [of pupils at their school], then such school section shall not be entitled to the apportionment from the school fund for the said six months," clause 22 of section 27, Consolidated Act. (See section 31 of Act above, and chapter 1, page 11 of these Lectures.)

**11.—Penalty on Trustees for not calling certain School Meetings.**

"In case any annual or other school section meeting has not been held for want of the proper notice, each trustee or other person whose duty it was to give such notice, shall forfeit the sum of five dollars, to be sued for and recovered before a justice of the peace, by any resident inhabitant in the section, for the use thereof." (See the one hundred and fortieth section of this Act, page 173. Section 21, Consolidated Act.)

**12.—Penalty for refusing to serve as Trustee.**

"If any person chosen as trustee refuses to serve, he shall forfeit the sum of five dollars; and every person so chosen who has not refused to accept the office, and who at any time refuses or neglects to perform its duties, shall forfeit the sum of twenty dollars, to be sued for and recovered before a justice of the peace, by the trustees of the school section, or by any two ratepayers, for its use," [as authorized by the one hundred and fortieth section of this Act, page 173. Section 23, Consolidated Act, and section 30 of Act of 1871.] (See clause A. of section 3, page 9, of these Lectures.)

**13.—Fine for Default, or in case of neglect to make Declaration.**

"And if any person elected as trustee shall not make the declaration within two weeks after notice of his election, his neglect to do so shall be sufficient evidence of his refusing to serve, and of his liability to pay the fine, as provided for in the preceding twenty-third section of the said Ontario Consolidated Public School Act."—Section 18, Act of 1860. (See clause C., section 3, page 9, and clause 8, section 9, page 45, of these Lectures.)

**14.—Penalty on Chairman of School Meeting for Neglect.**

"Any chairman who neglects to transmit to the county inspector a copy of the proceedings of an annual or other school section meeting over which he may preside, within ten days after the holding of such meeting, shall be liable, on the complaint of any ratepayer, to a

fine of not more than five dollars, to be recovered as provided in the one hundred and fortieth section of the Ontario Consolidated Public School Act aforesaid," page 173. Section 19, Act of 1860.

**15.—Penalty for False Declaration of the right to vote in Cities, Towns and Villages.**

"If any person [at a school trustee election in a city, town or village] wilfully makes a false declaration of his right to vote, he shall be guilty of a misdemeanor, and upon conviction, upon the complaint of any other person, shall be punishable by fine and imprisonment, in the manner provided for in the eighteenth section of this Act," below. Section 71, Consolidated Act, (see page 119.)

**16.—Penalty for False Declaration of right to vote in Rural Sections.**

"If any person [in a rural school section] wilfully makes a false declaration of his right to vote, he shall be guilty of a misdemeanor, and be punishable by fine or imprisonment, at the discretion of the court of Quarter Sessions; or by a penalty of not less than five dollars, or more than ten dollars, to be sued for and recovered with costs before a justice of the peace, by the trustees of the school section, for its use."—Section 18, Consolidated Act, (see page 43.)

**17.—Apportionment by County Inspectors.**

Inspectors are directed by law to apportion, but not to pay the school fund "to any school section whose trustees have neglected to transmit their return of average attendance for the last preceding half year."—Section 91, Consolidated Act, (see page 152 of Lectures.)

**18.—Inspector to give Cheques to none but Qualified Teachers.**

The inspector is authorized "to give to any qualified teacher (but to no other) on the order of the trustees of any school section, a cheque upon the county treasurer or sub-treasurer, for any sum of money apportioned and due to such section."—Ibid, clause 2, (see pages 65, 153 of these Lectures.)

**19.—Conditions of giving Orders to Teachers.**

"Except in the case of a new school section, [the inspector] shall not give a cheque upon [the trustees'] order, unless a satisfactory annual school report for the year ending the last day of December preceeding has been received from the trustees; nor unless it appears by such report, that a school has been kept by a qualified teacher in such section."—Ibid, (see pages 66, 151.)

**20.—Inspector may suspend Teacher's Certificate.**

Each public school inspector is authorized "to suspend the [provincial or county] certificate of qualification of any teacher [of a

public or separate school] granted by the Board of Examiners, for any cause which may appear to him to require it, until the next ensuing meeting of the board, of which meeting due notice shall be given to the teacher suspended, and such board shall dispose of the case as a majority of the members present think proper; and the cancelling or suspension of a teacher's certificate of qualification shall release his school trustees from any obligation to continue him in their employment."—Clause 9, section 91, Consolidated Act. (See pages 66, 150.)

"A school inspector shall have the same authority to suspend, for the time being, a provincial certificate of a teacher's qualifications, and report the same forthwith to the chief superintendent, as he has to suspend a county certificate, notifying in writing to the teacher whose certificate is suspended, the reasons of it; and the chief superintendent shall finally decide upon the case."—Section 22, Act of 1860, (see pages 66, 150.)

**21.—Teachers to give access to Register and Visitors' Book.**

"At all times, when desired by them, to give the trustees and visitors access to the register and visitors' book appertaining to the school, and upon his leaving the school to deliver up the same to the order of the trustees."—Clause 5, section 82, Consolidated Act, (see page 53.)

**22.—Teacher to deliver up School Key and Register.**

"Any teacher wilfully refusing, on the demand of the majority of the trustees of the school corporation employing him, to deliver up any school register or school house key, or other school property in his possession, shall be deemed guilty of a misdemeanor, and shall not be deemed a qualified teacher until restitution be made; and shall also forfeit any claim which he may have against the said trustees."—Section 1, Act of 1860, (see page 53.)

**23.—Township Clerk required to prepare School Map of the Township.**

"Should the clerk neglect or refuse to prepare and furnish the map of the school divisions of his municipality, as required by the forty-ninth section of the Consolidated School Act, he shall render himself liable to a penalty not exceeding ten dollars, to be recovered before a magistrate, for the school purposes of his municipality, at the instance of any ratepayer thereof."—Section 19, Act of 1871, (see page 88; also clause 9, chapter vi., page 97, of these Lectures.)

**24.—Penalty for Disturbing a School or School Meeting.**

"Any person who wilfully disturbs, interrupts, or disquiets the proceedings of any school meeting authorized to be held by this Act, or any school established and conducted under its authority, or wilfully interrupts or disquiets any high or other public school, by rude

or indecent behaviour, or by making a noise either within the place where such school is kept or held, or so near thereto as to disturb the order or exercises of such school, shall, for each offence, on conviction thereof before a justice of the peace, on the oath of one credible witness, forfeit and pay for public school purposes to the school section, city, town, or village, within which the offence was committed, such sum not exceeding twenty dollars, together with the costs of the conviction, as the said justice may think fit; or the offender may be indicted and punished for any of the offences hereinbefore mentioned as a misdemeanor."—Section 139, Consolidated Act.

**25.—How Penalties under this Act shall be recovered.**

"Unless it is in this Act otherwise provided, all fines, penalties, and forfeitures recoverable by summary proceeding, may be sued for, recovered, and enforced, with costs, by and before any justice of the peace having jurisdiction within the school section, city, town, or village, in which such fine or penalty has been incurred; and if any such fine or penalty and costs be not forthwith paid, the same shall, by and under the warrant of the convicting justice, be enforced, levied, and collected, with costs, by distress and sale of the goods and chattels of the offender, and shall be by such justice paid over to the school treasurer of the school section, city, town, or village, or other party entitled thereto; and in default of such distress, such justice shall, by his warrant, cause the offender to be imprisoned for any time not exceeding thirty days, unless the fine and costs, and the reasonable expenses of endeavouring to collect the same, be sooner paid."—Section 140, Consolidated Act.

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**1.—Interpretation Clause to the School Laws.**

"The word 'teacher' shall include female as well as male teachers; the word 'county' shall include unions of counties, and the word 'townships' shall include unions of townships made for municipal purposes."—Section 151, Consolidated Act.

**2.—Meaning of Reference to Municipal and Assessment Acts.**

"Wherever reference is made in any School Act to the Municipal Institutions or Assessment Acts, it shall be held to mean those Acts, or amendments to them, which may be in force at the time of performing any duty under their authority."—Section 31, Act of 1871.

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## CHAPTER XXII.

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### COUNTY AND CITY BOARDS OF EXAMINERS.

#### 1.—Constitution of the Board of Examiners.

Each county or city board for the examination of public school teachers may consist of three or five members, one of whom shall be the public school inspector, and two (or four) persons, who must be possessed of the requisite qualifications. A majority of the members of the board shall form a quorum for the transaction of business.

#### 2.—Who may be a Member of the Examining Board.

"All head masters of high schools, and those graduates in art who have proceeded regularly to their degrees in any university in the British dominions, and have taught in a college or school not less than three years; all candidates for degrees in arts in the universities of the United Kingdom, who, previously to the year 1864, possessed all the statutable requisites of their respective universities for admission to such degrees, and have taught in a college or school not less than three years; and all teachers of public schools who have obtained first-class Provincial certificates of qualification, shall be considered as legally qualified to be appointed members of a county or city board of examiners, without further examination, on their obtaining from the Education Department, for the satisfaction of the county council or city board, a certificate of their having complied with this regulation, and being eligible under its provisions."—Regulation 2, of 1871.

#### 3.—By whom and when is the Board of Examiners appointed.

- (1). For the county, by the county council.
- (2). For the city, by the city board of trustees.

NOTE.—The appointment of examiners is to be made annually, from among those only who present the legal certificates of qualification.

#### 4.—To what Allowance is the Board of Examiners entitled?

"Each of its members shall be entitled to the same recompense for his time and expenses as are members of the county corporation for their attendance at county council meetings; and the incidental expense attending the meeting of such county or city board, shall include the recompense to its members, the stationery, room, fuel, light, printing of notices, examination papers and certificates, and such remuneration to the secretary of such board as the board may deem just and expedient."—Section 11, Act of 1871, and section 16, Act of 1860.

**5.—By whom shall these Expenses be paid?**

- (1). In counties,—by the county municipal council.
- (2). In cities,—by the city council, or board of public school trustees.

**6.—What are the Duties of each Board of Examiners?**

(1). *Candidate's Application.*—To see that each candidate, before competing for a certificate, complies with the conditions laid down in section 14 of this chapter, and to require each candidate to present a certificate of good moral character, signed by some clergyman or minister, and to furnish certain information, as required in a form of application furnished for that purpose; and to fill up for transmission to the Education Department a report founded upon that information, together with a report of the result of the examination itself.

(2). *Examine Candidates.*—To examine, as pointed out in the official regulations, candidates for first, second and third class certificates of qualification as public school teachers in Ontario, in the printed questions sent to them from the Education Department.

(3). *Grant Certificates.*—To grant second-class Provincial and third-class county certificates of qualification as public school teachers to those candidates whose answers to the questions proposed to them come up to the standard laid down in section 13 of this chapter.

NOTE.—The law requires that "every such certificate of qualification shall have the signature of at least one inspector of schools; but no such certificate shall be given to any person as a teacher, who does not furnish satisfactory proof of good moral character, or who is not a natural-born or at the time of applying for such certificate is not a naturalized subject of Her Majesty, or who does not produce a certificate of having taken the oath of allegiance to Her Majesty before a justice of the peace for the county in which such person resides."—Sec. 99, Consol. Act.

(4). *Suspension cases.*—To investigate all cases of appeal to it against the act of the inspector in suspending a teacher's second or third class certificate. The action of the board of examiners shall be final with respect to third-class certificates, which are not valid beyond the county. But in the case of second-class certificates (which are provincial in their character), the board shall transmit to the chief superintendent, through the inspector, its report, together with the evidence taken thereon; and the chief superintendent shall either confirm or annul such suspension of a second-class certificate.—Regulation 12, of 1871.

(5). *Recall Certificates.*—To recall, at its discretion, any certificates issued by the former county or circuit board within its jurisdiction, and which are valid only during the pleasure of such boards.—Regulation 11, of 1871.

NOTE.—In regard to all other certificates formerly issued, the School Law of 1871 provides "that all existing certificates of qualification of teachers shall remain in force in their respective counties on the terms and conditions of the Act under which they were granted; and that upon their ceasing to be valid, as provided by law, they shall be renewed from time to time under the regulations and programmes prepared under the authority of this Act."

(6). *General authority.*—To examine and license “teachers, in accordance with the regulations provided by law.”

NOTE.—Though the board of examiners derives its existence from the statute, yet all of its proceedings must be governed, as above, by “the regulations provided by law.”

**7.—Value and Duration of Certificates of Qualification.**

“First and second class certificates, given under the authority of this Act, shall be permanent during the good behaviour of the holders, and valid in all the municipalities of the Province.” “First-class certificates of qualification of teachers shall be awarded by the council of public instruction only, and second and third class certificates by county and city boards of examiners only.”—Sec. 12, Act of 1871.

**8.—Chairman of the Board of Examiners and his Duties.**

“The inspector shall be chairman of the board of examiners, and as such shall receive and be responsible for the safe keeping, unopened, of the examination papers, until the day of the examination. He shall also, at the close of the examination of candidates for first-class certificates, seal up separately and transmit without delay to the Education Department (by express, receipted) the answers received from each candidate, together with all certificates of character, ability and experience in teaching which such candidates may have presented to the board. He shall further see that the written answers received from candidates for second and third class certificates, and all reports thereon, as approved by the board, together with the list of certificates issued by it, are also, as soon as possible after the close of the half-yearly examinations, transmitted by express to the Education Department.”—Regulation 4, of 1871.

**9.—Time and Place of each Examination.**

“Each board of examiners shall meet about the middle of July and December, in each year, at such convenient time and place as may be fixed by the council of public instruction. The examination of candidates for second and third class certificates shall be held first, and shall continue for not more than one week. It shall be held in such building as may be appointed by the Inspector, who shall give at least three weeks’ public notice thereof, in such manner as he shall deem expedient. The examination of candidates for first-class certificates shall be held at the same place on the Tuesday next after the close of the other examination.”—Regulation 8, of 1871 (amended).

**10.—Preliminary Meetings of the Board of Examiners.**

“The presiding inspector shall convene meetings of the examiners, for the purpose of arranging and determining on all matters relative to the examinations, and he shall preside at all such meetings, or, in his absence, any other inspector present shall preside, or, should no



inspector be present, the examiners may elect their own temporary chairman."—Regulation 5, of 1871.

**11.—Declaration of Office by, and Duty of each Examiner.**

"The presiding inspector shall transmit to the chief superintendent, on the first day of the examination, a copy of the following declaration, signed by himself and the other examiners (but such declaration shall not be required more than once from any examiner):

'I solemnly declare that I will perform my duty of examiner without fear, favour, affection or partiality towards any candidate, and that I will not knowingly allow to any candidate any advantage which is not equally allowed to all.'

"Each examiner, by his acceptance of office, binds himself in honour to give no information to candidates, directly or indirectly, by which the approaching examination of that candidate might be affected."—Regulations 6 and 7, of 1871.

**12.—Viva Voce and Special Examinations in certain Subjects.**

"The board of examiners shall subject the candidates to *viva voce* examination in reading, of the result of which a record shall be made. It shall also have authority to obtain the services of special examiners in the practice of vocal music and linear drawing, in case members of the board are not familiar with those subjects."—Regulation 10, of 1871.

NOTE.—"The report of the examiners on these subjects shall be in writing, addressed to the inspector. The payment for such services shall be certified by the inspector to the county treasurer, under the authority of the sixteenth section of the School Act of 1860."—*Ibid.*

**13.—General Regulations for the Examination of Candidates.**

(1). *Presiding Officer and his Duties.*—The inspector shall preside at the opening of the examination; and, at nine o'clock on the morning of the first day, in the presence of such of his colleagues as may be there, and of the candidates, he shall break the seal of the package of examination papers received for that examination, from the Education Department. He shall also break open the seal of each additional packet of examination papers as required, in the presence of a co-examiner and of the candidates. He shall further see that at least one examiner is present during the whole time of the examination, in each room occupied by the candidates. He shall, if desirable, appoint one or more of his co-examiners (1) to preside at the examination in any of the subjects named in the programme: (2) to read and report upon the answers as they are received; but under no circumstances shall a certificate of qualification be awarded to any candidate until the report on his answers, together with his certificates of character and service, etc., shall have been considered and approved by a majority of the board, the inspector being present.

(2). *Examination on Paper—Exceptions.*—The examination, except in reading, shall be conducted wholly on paper. The special examinations in the principles of linear drawing and vocal music, are required of all candidates. The further special examinations in linear drawing, on the blackboard, and practice of vocal music, provided for in section 12 of this chapter, are at the discretion of the boards.

(3). *Settlement of Doubtful Points.*—The inspector shall furnish to the Chief Superintendent, full numerical returns in all doubtful matters relating to the results of the examinations, on which a majority of the examiners do not agree, for his decision.

(4). *Routine to be observed in Answering.*—The candidates, in preparing their answers, will write only on one page of each sheet. They will also write their names on each sheet, and, having arranged their papers in the order of the questions, will fold them once across and write on the outside sheet their names, and the class of certificate for which they are competing. After the papers are once handed in, the examiners will not allow any alteration thereof, and the presiding inspector is responsible for the subsequent safe-keeping of the same, until he has transmitted them to the Education Department.

(5). *Punctuality and Rules of Order.*—The presiding inspector, or examiner, must be punctual to the moment in distributing the papers, and in directing the candidates to sign their papers at the close of the allotted time. No writing, other than the signature, should be permitted after the order to sign is given. The candidates are required to be in their allotted places in the room before the hour appointed for the commencement of the examination. If a candidate be not present till after the commencement of the examination, he cannot be allowed any additional time on account of such absence.

(6). *Who shall Examine Answers.*—In examining the answers of candidates, two examiners at least should look over each paper.

(7). *Numerical Values to Questions.*—The central committee of examiners appointed by the Council of Public Instruction will, in a paper, assign numerical values to each question or part of a question, according to their judgment of its relative importance. The local examiners will give marks for the answer to any question in correspondence with the number assigned to the question, and the completeness and accuracy of the answer.

(8). *Marks necessary to be obtained.*—In order that a candidate may obtain a second class certificate, the sum of his marks must amount, for grade A, to at least two-thirds, and for grade B, to one-half of the aggregate value of all the papers; in both cases, great importance should be attached to accurate spelling. The candidate must also obtain for grade A, two-thirds, and for grade B, one-half

of the marks assigned to the subjects of arithmetic and grammar. In order to obtain a third class certificate, the marks must be not less than one-half of the aggregate value of all the papers for certificates of that rank. A candidate for a second class certificate, who fails to obtain it, may be awarded a third class certificate, provided such candidate obtains what would be equivalent to fully one-half of the aggregate value of all the papers for a third class certificate.

(9). *Alphabetical List of Candidates.*—The names of successful candidates shall be arranged alphabetically, in classes and grades.

(10). *Penalty for Breaking Rules.*—In the event of a candidate copying from another, or allowing another to copy from him, or taking into the room any book, notes, or anything from which he might derive assistance in the examination, it shall be the duty of the presiding examiner, if he obtain clear evidence of the fact at the time of its occurrence, to cause such candidate at once to leave the room; neither shall such candidate be permitted to enter during the remaining part of the examination, and his name shall be struck off the list. If, however, the evidence of such case be not clear at the time, or be obtained after the conclusion of the examination, the examiners shall report the case at a general meeting of the examiners, who shall reject the candidate if they deem the evidence conclusive. —General Regulations, as revised in 1871.

#### 14.—Conditions required of Candidates for Certificates of Qualification as Teachers.

(1). *Notice to Inspector.*—Every candidate, who proposes to present himself at any examination, shall send in to the inspector, at least three weeks before the day appointed for the commencement of the examination, a notice stating the class of certificate for which he is a candidate, and the description of certificate he already possesses, if any; such notice to be accompanied by the testimonial required by the programme.

(2). *Eligibility for Third Class Certificate.*—To be eligible for examination for a third class (county) certificate, the candidate, if a female, must be 16 years of age; if a male, must be 18 years of age; and must furnish satisfactory proof of temperate habits and good moral character.

(3). *Eligibility for Second Class Certificate.*—Candidates for second class (provincial) certificates must furnish satisfactory proof of temperate habits and good moral character, and of having successfully taught in a school three years, except in the special cases provided for in the note. And no person shall be eligible to be a candidate for a second class certificate, unless he shall have previously obtained a third class certificate, under the present system of exami-

nation, or a first or second class certificate under the former system of county board examination.

NOTE.—Attendance at the Normal School, with the required practice in the Model School, and passing the requisite examination for a second class certificate, shall be considered equivalent to teaching three years in a public or private school.

(4). *Eligibility for First Class Certificate.*—Candidates for first class (provincial) certificates must furnish satisfactory proof of temperate habits and good moral character, and of having successfully taught in a school five years, or two years if during that period he has held a second class certificate, granted under these regulations. But all candidates for first class certificates, who do not already possess second class provincial certificates, shall be required to previously pass the examination for such second class certificate.

NOTE.—Attendance at the Normal School for Ontario, with the required practice in the Model School, and passing the requisite examination for a first class certificate, shall be considered equivalent to teaching five years in a public or private school.

(5). *French and German Teachers.*—In regard to teachers in French or German settlements, a knowledge of the French or German grammar respectively may be substituted for a knowledge of the English grammar, and the certificates to the teachers expressly limited accordingly.

#### 15.—Value and Duration of Certificates.

(1). *First and Second Class Certificates* are valid during good behaviour and throughout the Province of Ontario; and a first class certificate of the highest grade (A), renders the holder eligible for the office of county inspector.

(2). *Third Class Certificates* are valid only in the county where given, and for three years, and not renewable, except on the recommendation of the county inspector; but a teacher, holding a third class certificate, may be eligible in less than three years, for examination for a second class certificate, on the special recommendation of his county inspector.

#### 16.—Alien Teachers to take the Oath of Allegiance.

The law provides that "no certificates shall be given to any person as a teacher, who does not furnish satisfactory proof of good moral character, or who, at the time of applying for such certificate, is not a natural born or naturalized subject of Her Majesty, or who does not produce a certificate of having taken the oath of allegiance to Her Majesty, before a justice of the peace for the county in which such person resides."—Clause 5, section 98, Consolidated Act.

**17.—Form of Oath of Allegiance.**

The following is the form of the oath of allegiance prescribed by the Act, 22 Victoria, chapter 8, section 2, Consolidated Statutes of Canada :—

"I, A. B., do sincerely promise and swear, (*or, being one of the persons allowed to affirm in judicial cases* \* do affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Victoria as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of the Province of Canada, dependent on and belonging to the said United Kingdom; and that I will defend her to the utmost of my power against all traitorous conspiracies and attempts whatever which shall be made against her person, Crown and dignity; and that I will do my utmost endeavour to disclose and make known to Her Majesty, her heirs and successors, all treasons and traitorous conspiracies and attempts which I shall know to be against her or any of them; and all this I do swear, without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any person or persons whatever to the contrary. So help me God."

**18.—Teachers exempt from Serving as Jurors, etc.**

The twenty-fifth clause of the seventh section of the Consolidated Jurors' Act, 22 Vic. chap. 31, exempts masters and teachers of high and public schools actually engaged in teaching, from service as jurors; and the seventy-fourth section of the Municipal Institutions Act, 22 Vic. chap. 54, exempts them "from being elected or appointed councillors, or to any other corporate office."

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\* By the Act, 22 Victoria, chapter 32, section 1, of the Consolidated Statutes of Upper Canada, it is enacted that a Quaker, Menonist, or Tunker, or a member of the Church known as the "*Unitas Fratrum*," or the United Brethren, sometimes called the Moravian Church, having first made the following declaration or affirmation, viz., "I, A. B., do solemnly, sincerely, and truly declare and affirm that I am one of the Society called "Quakers, Menonists, &c. (*as the case may be*), may make his affirmation or declaration, and such affirmation or declaration shall have the same force and effect as an oath taken in the usual form.

## CHAPTER XXIII.

DUTIES OF THE CHIEF SUPERINTENDENT  
OF EDUCATION.**1.—A Chief Superintendent to be Appointed—His Responsibility.**

"The Governor may, from time to time, by letters patent under the great seal of the Province, appoint a fit and proper person to be Chief Superintendent of Education for Ontario, who shall hold the office during pleasure, and shall receive a salary of the same amount as the Superintendent of Education in Quebec. He shall be responsible to, and subject to the direction of the Governor, communicated through any department of the Provincial Government."—Sections 103 and 104, Consolidated Act.

**2.—Duties of the Chief Superintendent of Education.**

It shall be the duty of the Chief Superintendent of Education, and he is hereby empowered,—

(1). *Apportioning Legislative Grant.*—To apportion annually, on or before the first day of May, all moneys granted or provided by the Legislature for the support of the public schools in Ontario, and not otherwise appropriated by law to the several counties, townships, cities, towns, and incorporated villages, according to the ratio of population in each, as compared with the whole population of Ontario; but when the census or returns upon which such an apportionment is to be made, are so far defective in respect of any county, township, city, town, or village, as to render it impracticable for the Chief Superintendent to ascertain therefrom the share of school moneys which ought to be so apportioned, he shall make the apportionment according to the ratio in which, by the best evidence in his power, the same can be most fairly and equitably made.

(2). *Notice to the Provincial Treasurer and County Clerks.*—To certify to the Provincial Treasurer the apportionments made by him, so far as they relate to the several counties, cities, towns, and incorporated villages in Ontario, and to give immediate notice thereof to the clerk of each county, city, town and village interested therein, stating the time when the amount of moneys so apportioned will be payable to the treasurer of the county, city, town, or village.

(3). *Distribution by School Inspectors.*—To direct the distribution of the public school fund of any township among the several school sections and parts of sections entitled to share in the same, according

to the length of time in each year during which a school has been kept open by a legally qualified teacher in each of such sections or parts of sections.

(4). *Apportioning Library Grant.*—To apportion the moneys provided by the Legislature for the establishment and support of school libraries; but no aid shall be given towards the establishment or support of any school library, unless an equal amount be contributed and expended from local sources for the same object.

(5). *Preparing Forms and Regulations.*—To prepare suitable forms, and to give such instructions as he may judge necessary and proper, for making all reports, and conducting all proceedings under this Act, and to cause the same, with such general regulations as may be approved of by the Council of Public Instruction for the better organization and government of public schools, to be transmitted to the officers required to execute the provisions of this Act.

(6). *Distributing Act and Forms.*—To cause to be printed, from time to time, in a convenient form, so many copies of this Act, with the necessary forms, instructions, and regulations to be observed in executing its provisions, as he may deem sufficient for the information of all officers of public schools, and to cause the same to be distributed for that purpose.

(7). *Protecting School Moneys—Deciding Complaints.*—To see that all moneys apportioned by him are applied to the objects for which they are granted; and for that purpose, and when not otherwise provided for by law, to decide upon all matters and complaints submitted to him, which involve the expenditure of any part of the school fund.

(8). *Deciding Disputes.*—The Chief Superintendent shall have authority to decide upon all disputes and complaints laid before him, the settlement of which is not otherwise provided for by law, and upon all appeals made to him from the decision of any inspector or other school officer.—School Act of 1860, section 14.

(9). *Disagreement between Roman Catholic School Trustees and Officials.*—In the event of any disagreement between trustees of Roman Catholic separate schools and inspectors of public schools, or other municipal authorities, the case in dispute shall be referred to the equitable arbitrament of the Chief Superintendent of Education in Ontario; subject, nevertheless, to appeal to the Governor-in-Council, whose award shall be final in all cases.—Section 27 of Roman Catholic Separate School Act of 1863.

(10). *Application of Balances of the School Fund.*—To direct the application of the balances of the school fund apportioned for any year, which may be forfeited according to the provisions of this Act, towards making up the salaries of teachers in the county to which the same have been apportioned.



(11). *Appointing a Deputy and Special Inspectors.*—To appoint one of his clerks to be his deputy,\* to perform the duties of his office in his absence; and to appoint one or more persons, as he, from time to time, deems necessary, to inspect any school, or to examine into and report to him upon any school matter in the county where such person or persons reside; but no allowance or compensation shall be made to such special inspector or inspectors for any services performed by him or them.

(12). *To have the Supervision of the Normal School.*—To take the general superintendence of the Normal School; and use his best endeavours to provide for and recommend the use of uniform and approved text-books in the schools generally.

(13). *Establishing School Libraries.*—To employ all lawful means in his power to procure and promote the establishment of school libraries for general reading, in the several counties, townships, cities, towns, and villages.

(14). *To provide plans for School-houses, and to disseminate useful information.*—To provide and recommend the adoption of suitable plans of school-houses, with the proper furniture and appendages; and to collect and diffuse among the people of Ontario useful information on the subject of education generally.

(15). *To submit Books, Manuscripts, and General Regulations to the Council of Public Instruction.*—To submit to the Council of Public Instruction, all books or manuscripts which, with the view of obtaining the recommendation or sanction of such council for their introduction as text-books or library books, are placed in his hands; and to prepare and lay before the Council of Public Instruction, for its consideration, such general regulations for the organization and government of public schools, and the management of school libraries, as he may deem necessary and proper.

(16). *Appoint Conductors of Teachers' Institutes.*—To appoint proper persons to conduct county teachers' institutes, and to furnish such rules and instructions as he may judge advisable in regard to the proceedings of such institutes, and the best means of promoting and elevating the profession of school teaching, and increasing its usefulness.

(17). *Responsibility for Moneys.*—To be responsible for all moneys paid through him in behalf of the Normal and Model Schools, and to give such security for the same as the Governor may require.

(18). *Correspondence of the Council of Public Instruction.*—To prepare and transmit all correspondence directed or authorized by the Council of Public Instruction for Ontario.

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\* The Provincial Statutes General Interpretation Act declares that : \* \* \* : 6 Twenty-third.—Words directing or empowering a public officer or functionary to do any act or thing, or otherwise applying to him by his name or office, shall include his successors in such office, and his or their lawful deputy. The Deputy Superintendent of Education for Ontario was appointed by the Governor General in 1855, on the recommendation of the Chief Superintendent.



(19). *To make Annual Report to the Governor.*—To make annually to the Governor, on or before the first day of July, a report of the Normal, Model, High and Public Schools throughout Ontario, showing the amount of moneys expended in connection with each, and from what sources derived, with such statements and suggestions for improving the schools and the school laws, and promoting education generally as he may deem useful and expedient.

(20). *To make Financial Report to Parliament.*—To lay before the Legislature at each sitting thereof, a correct and full account of the disposition and expenditure of all moneys which come into his hands as Chief Superintendent; and annually, on or before the thirtieth of January in each year, to make the report required by the Act for the more efficient auditing of public accounts.—Clauses of Section 106, Consolidated Act, except (8) and (9) above.

### 3.—Uniformity of Decisions in Division Courts.

"It being highly desirable that uniformity of decisions should exist in cases within the cognizance of the division courts and tried in such courts, in which the school inspectors, trustees, teachers, and others acting under the provisions of this Act are parties, the judge of any division court wherein any such action may be tried, may, at the request of either party, order the entering of judgment to be delayed for a sufficient time to enable such party to apply to the Chief Superintendent of Education to appeal the case, and after notice of appeal has been served as hereinafter provided, no further proceedings shall be had in such cases until the matter of appeal has been decided by a superior court."—*Ibid*, section 108.

### 4.—Chief Superintendent may Appeal from such Court to the Superior Courts of Law.

"The Chief Superintendent may, within one month after the rendering of judgment in any such case, appeal from the decision of the division court judge in either of the superior courts of law at Toronto, by serving notice in writing of such appeal upon the clerk of the division court appealed from, which appeal shall be entitled 'The Chief Superintendent of Education for Ontario, appellant, in the matter between (A. B. and C. D.).'—*Ibid*, section 109.

### 5.—Judge to send Papers to Superior Court.

"The judge, whose decision is appealed from, shall thereupon certify under his hand, to the superior court appealed to, the summons and statement of claim and other proceedings in the case, together with the evidence and his own judgment thereon, and all objections made thereto."—*Ibid*, section 110.

### 6.—What County Judge must do in Appeal Cases.

"Any division court judge receiving an intimation of appeal from his decision, under the authority of the one hundred and eighth and

five following sections of the Consolidated School Act, shall thereupon certify, under his hand, to the Chief Superintendent of Education, the statement of claim and other proceedings in the case, together with the evidence and his own judgment thereon, and all objections made thereto."—Section 28 of Act of 1871.

**7.—Superior Court to give such Order as Law and Equity Require.**

"The matter shall be set down for argument at the next term of such superior court, and such court shall give such order or direction to the court below, touching the judgment to be given in the matter, as law and equity require, and shall also in its discretion award costs against the appellant, which costs shall be certified to and form part of the judgment of the court below."—Section 111, Consolidated Act.

**8.—Proceedings in Division Court thereon.**

"Upon receipt of such order, direction, and certificate, the judge of the division court shall forthwith proceed in accordance therewith."—*Ibid*, section 112.

**9.—Costs of Appeals.**

"All costs awarded against an appellant, and all costs incurred by him, shall be paid by the Chief Superintendent, and charged as contingent expenses of his office."—*Ibid*, section 113.

*Submit Cases to the Superior Courts.*—"It shall be competent for the Chief Superintendent of Education, should he deem it expedient, to submit a case on any question arising under the High or Public School Acts, to any judge of either of the superior courts for his opinion and decision, or, with the consent of such judge, to either of the superior courts for their opinion and decision."—Section 23, Act of 1860.

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## CHAPTER XXIV.

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### DUTIES OF THE COUNCIL OF PUBLIC INSTRUCTION.

**1.—Council of Public Instruction to be appointed.**

"The Governor may appoint a Council of Public Instruction for Ontario, to consist of not more than *nine*\* persons (of whom the Chief Superintendent of Education shall be one) to hold office respectively during pleasure, and such council shall, in the exercise of its duties,

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\* Increased for High School purposes by the Heads of Colleges.

be subject to all lawful orders and directions from time to time issued by the Governor."—Section 114, Consolidated Act.

**2.—Chief Superintendent to provide Place and call Meetings.**

"The Chief Superintendent shall provide a place for the meetings of the Council of Public Instruction, and may call a special meeting at any time by giving due notice to the other members."—*Ibid*, section 115.

**3.—Contingent Expenses of Council provided for.**

"The expenses attending the proceedings of the said council shall be accounted for by the Chief Superintendent as part of the contingent expenses of the Education Office."—*Ibid*, section 116.

**4.—Recording Clerk and his Duties.**

"The senior clerk in the Education Office shall be recording clerk to the said council—he shall enter all its proceedings in a book kept for that purpose—and shall, as may be directed procure the books and stationery for the Normal and Model Schools, and keep all the accounts of the said council."—*Ibid*, section 117.

**5.—Quorum of Three and Casting Vote of Chairman.**

"At any lawful meeting of the Council of Public Instruction, three members shall form a *quorum* for the transaction of business, and in case of an equality of votes on any question, the chairman shall have a second or casting vote."—*Ibid*, section 118.

**6.—Duties of the Council.**

"It shall be the duty of such council, and they are hereby empowered,—

(1). *To appoint Chairman, &c.*—To appoint a chairman, and determine the times of its meetings, and the mode of conducting its proceedings.—*Ibid*, section 114.

(2). *Establishment and Efficiency of Normal and Model Schools.*—To adopt all needful measures for the permanent establishment and efficiency of the Normal School for Ontario, containing one or more Model School, for the instruction and training of teachers of public schools in the science of education and the art of teaching.—*Ibid*.

(3). *Regulations for Normal and Model Schools.*—To make from time to time the rules and regulations necessary for the management and government of such Normal School ; to prescribe the terms and conditions on which students will be received and instructed therein ; to select the location of such school, and erect or procure and furnish the buildings therefor ; to determine the number and compensation of teachers, and of all others who may be employed therein ; and to do all lawful things which such council may deem expedient to promote the objects and interests of such school.—*Ibid*.

(4). *To make Regulations for Public School Teachers and Libraries.*—To make such regulations, from time to time, as it deems expedient, for the organization, government, and discipline of public schools, for the classification of schools and teachers, and for school libraries throughout Ontario.—*Ibid.*

(5). *Fix Qualifications of Inspectors.*—The qualifications of county, city, or town inspectors shall, from time to time, be prescribed by the Council of Public Instruction, which shall determine the time and manner of examination of candidates for certificates of qualification, and grant certificates of qualification; and no one not holding such certificate of qualification shall be eligible to be appointed inspector.—Section 7, Act of 1871.

(6). *Provide for Examination of Public School Teachers.*—Each county council and the board of public school trustees in each city, shall appoint a county or city board of examiners, (for the examination and licensing of teachers, in accordance with the regulations provided by law), consisting of the county or city inspector (as the case may be), and two or more other competent persons, whose qualifications shall, from time to time, be prescribed by the Council of Public Instruction, &c.—*Ibid.*, section 11. (See page 174.)

It shall be the duty of the Council of Public Instruction, from time to time, by a committee of its appointment, or otherwise, to prepare and prescribe a programme and papers for the uniform examination and classification of public school teachers, &c.—*Ibid.* (See page 174.)

(7). *Provisions for Teaching of Natural History, Agricultural Chemistry and Mechanics.*—It shall also be the duty of the Council of Public Instruction, by the training of teachers, the programme of studies, the selection of text books, and special regulations, to provide for teaching, in the public schools, the elements of natural history, of agricultural chemistry, of mechanics, and of agriculture.—*Ibid.*, section 13.

(8). *To Recommend Text and Library Books.*—To examine, and, at its discretion, recommend or disapprove of text-books for the use of schools, or books for school libraries. (See page 198.)

(9). *To make Regulations for granting Pensions to Superannuated Teachers.*—To prescribe such regulations, with the approbation of the Governor in Council, as it, from time to time, deems expedient, for granting pensions to superannuated or worn-out teachers of public schools; but no annual allowance to any superannuated or worn-out teacher shall exceed the rate of six dollars for each year that such teacher has taught a public school in Ontario; and no teacher shall be entitled to share in the said fund unless he has contributed to such fund, the sum of four dollars or more per annum, for the period of

his teaching school, or of his receiving aid from such fund, nor unless he furnishes satisfactory proof to the Council of Public Instruction, of inability, from age or loss of health in teaching, to pursue that profession any longer.—Section 119, Consolidated Act.

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## CHAPTER XXV.

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### SCHOOL VISITORS AND THEIR DUTIES.

#### 1.—Public School Visitors defined.

All clergymen recognized by law, of whatever denomination, all judges, members of the Legislature, magistrates, members of county councils, and aldermen, shall be school visitors in the townships, cities, towns, and villages where they respectively reside: but persons holding the commission of the peace for the county only, shall not be school visitors within towns and cities; and each clergyman shall be a school visitor only in the township, town, or city where he has pastoral charge.—Section 100, Consolidated Act.

#### 2.—Who are Visitors to the Roman Catholic Separate Schools.

All judges, members of the Legislature, the heads of the municipal bodies in their respective localities, the Chief Superintendent of Education and the inspectors of public schools and clergymen of the Roman Catholic Church, shall be visitors of separate schools.—Section 23, Separate School Act of 1863.

#### 3.—Authority to visit the Public Schools.

Each of the school visitors may visit the public school in the township, city, town, or village; and may attend the quarterly examination of schools, and, at the time of such visit, may examine the progress of the pupils, and the state and management of the school, and give such advice to the teacher and pupils, and any others present, as he thinks advisable, in accordance with the regulations and instructions provided in regard to school visitors.

#### 4.—General Meeting of School Visitors.

A general meeting of the visitors may be held at any time or place appointed by any two visitors, on sufficient notice being given to the other visitors in the township, city, town, or village; and the visitors, thus assembled, may devise such means as they deem expedient for

the efficient visitation of the schools, and for promoting the establishment of libraries, and the diffusion of useful knowledge.\*—*Ibid*, section 102.

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## CHAPTER XXVI.

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### GENERAL REGULATIONS FOR PUBLIC SCHOOLS IN ONTARIO.

#### 1.—Authority to prescribe these Forms and Regulations.

1. *The Council of Public Instruction for Ontario* is required by the fourth clause of the one hundred and nineteenth section of the Ontario Consolidated Public School Act, "To make such regulations from time to time, as it deems expedient, for the organization, government, and discipline of public schools, for the classification of schools and teachers, and for school libraries throughout Ontario." The sixth clause of the same section requires the council "to prescribe such regulations, with the approbation of the Governor in Council, as it from time to time deems expedient, for granting pensions to superannuated or worn-out teachers of public schools." The School Law of 1871 also requires the council to make certain other regulations in regard to inspectors, teachers, &c.

2. *The Chief Superintendent of Education for Ontario* is required by the fifth clause of the one hundred and sixth section of the same Act, "To prepare suitable forms, and to give such instructions as he may judge necessary and proper, for making all reports, and conducting all proceedings under this Act."

#### 2.—Duty of all Parties Concerned to Observe these Regulations.

1. *The Public School Trustees in rural sections* are required by the seventeenth clause of the twenty-seventh section of the Ontario Consolidated Public School Act, "To visit, from time to time, each school under their charge, and see that it is conducted according to the authorized regulations."

2. *The Public School Trustees in cities, towns, and incorporated villages*, are required, by the sixteenth clause of the seventy-ninth

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\* Too strong a recommendation cannot be given to the establishment of circulating libraries in the various townships and school sections. A township library with auxiliaries in each school section, might, by means of a comparatively small sum, supply popular and useful reading for the young people of a whole township. It is submitted to the serious attention of all school visitors, as well as trustees, and other friends of the diffusion of useful knowledge. See the Departmental notices on the subject

section of the same Act, "To see that all the schools under their charge are conducted according to the authorized regulations."

3. *Public School Teachers* are required by the third clause of the eighty-second section of the same Act, "To maintain proper order and discipline in their schools, according to the authorized forms and regulations." The first clause of the same section further requires teachers "To teach \* \* \* all the branches required to be taught in the school \* \* \* according to the provisions of this Act.

4. *Inspectors of Schools* are required, by the sixth clause of the ninety-first section of the same Act, "To see that all the schools are managed and conducted according to law." The eleventh clause of the same section also requires him "To act in accordance with the regulations and instructions provided for his guidance." The School Law Improvement Act of 1871 declares that he shall be subject to all the obligations conferred or imposed by law \* \* \* according to such instructions as may be given to him, from time to time, by the Chief Superintendent of Education.

5. *County and Circuit Boards of Examiners* are required by the fourth clause of the ninety-eighth section of the same Act, "To examine and give certificates of qualification to teachers of schools \* \* \* as prescribed in a programme of examination and instructions provided for that purpose."

6. *Superannuated School Teachers in Ontario* are subject to regulations in clause six of the one hundred and nineteenth section of the Act.

7. *The Roman Catholic Separate School Act* declares that, "The Roman Catholic separate schools shall be subject to such regulations as may be imposed, from time to time, by the Council of Public Instruction for Ontario.

8. *Public and High Schools*.—The School Law Improvement Act of 1871 declares, in the thirty-seventh section, that "No public or high school shall be entitled to share in the fund applicable to it, unless it is conducted according to the regulations provided by law."

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\*—*Ibid*,

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## CHAPTER XXVII.

### 1.—Religious and Moral Instruction in the Public Schools.

1. As Christianity is the basis of our whole system of elementary education, that principle should pervade it throughout. The Consolidated Public School Act, section 129, securing individual rights, as well as recognizing Christianity, provides that in any model or public school establishment under this Act, "No person shall require any pupil of any such school to read or study in or from any religious book, or to join in any exercise of devotion or religion, objected to by his or her parents or guardians; but within this limitation, pupils shall be allowed to receive such religious instruction as their parents or guardians desire, according to any general regulations provided for the government of public schools."

2. In the section of the Act thus quoted, the principle of religious instruction in the schools is recognized, the restrictions with which it is to be given are stated, and the exclusive right of each parent and guardian on the subject is secured.

3. The public school being a *day*, and not a *boarding school*, rules arising from domestic relations and duties are not required, and as the pupils are under the care of their parents and guardians on Sabbaths, no regulations are called for in respect to their attendance at public worship.

### 2.—Opening and Closing Exercises of each Day.

With a view to secure the Divine blessing, and to impress upon the pupils the importance of religious duties, and their entire dependence on their Maker, the Council of Public Instruction recommends that the daily exercises of each public school be opened and closed by reading a portion of Scripture, and by prayer. The Lord's Prayer alone, or the Forms of Prayer hereto annexed, may be used, or any other prayer preferred by the trustees and master of each school. But the Lord's Prayer shall form part of the opening exercise, and the Ten Commandments be taught to all the pupils, and be repeated at least once a week. But no pupil should be compelled to be present at these exercises against the wish of his parent or guardian, expressed in writing to the master of the school.

#### FORMS OF PRAYER:

(BEFORE ENTERING UPON THE BUSINESS OF THE DAY.)

*Let us Pray.*

O Lord, our Heavenly Father, Almighty and Everlasting God, who hast safely brought us to the beginning of this day, defend us



in the same by thy mighty power ; and grant that this day we fall into no sin, neither run into any kind of danger, but that all our doings may be ordered by Thy governance, to do always that is righteous in Thy sight, through Jesus Christ our Lord. *Amen.*

O Almighty God, the Giver of every good and perfect gift, the Fountain of all wisdom, enlighten, we beseech Thee, our understandings by Thy Holy Spirit, and grant that, whilst with all diligence and sincerity, we apply ourselves to the attainment of human knowledge, we fail not constantly to strive after that wisdom which maketh wise unto salvation ; that so, through Thy mercy we may daily be advanced both in learning and godliness, to the honour and praise of Thy Name, through Jesus Christ our Lord. *Amen.*

Our Father, which art in Heaven, hallowed be Thy name, Thy kingdom come, Thy will be done on earth, as it is in Heaven : give us this day our daily bread ; and forgive us our trespasses, as we forgive them that trespass against us ; and lead us not into temptation ; but deliver us from evil ; for Thine is the kingdom, the power, and the glory, for ever and ever. *Amen.*

The grace of our Lord Jesus Christ, and the love of God, and the fellowship of the Holy Ghost, be with us all evermore. *Amen.*

(AT THE CLOSE OF THE BUSINESS OF THE DAY.)

*Let us Pray.*

Most merciful God, we yield Thee our humble and hearty thanks for Thy fatherly care and preservation of us this day, and for the progress which Thou hast enabled us to make in useful learning ; we pray Thee to imprint upon our minds whatever good instructions we have received, and to bless them to the advancement of our temporal and eternal welfare ; and pardon, we implore thee, all that Thou hast seen amiss in our thoughts, words, and actions. May Thy good Providence still guide and keep us during the approaching interval of rest and relaxation, so that we may be prepared to enter on the duties of the morrow with renewed vigour, both of body and mind ; and preserve us, we beseech Thee, now and forever, both outwardly in our bodies, and inwardly in our souls, for the sake of Jesus Christ, Thy Son, our Lord. *Amen.*

Lighten our darkness, we beseech Thee, O Lord ; and by Thy great mercy, defend us from all perils and dangers of this night, for the love of Thy only Son, our Saviour, Jesus Christ. *Amen.*

Our Father, which art in Heaven, hallowed be Thy name, Thy kingdom come, Thy will be done on Earth as it is in Heaven ; give us this day our daily bread ; and forgive us our trespasses as we forgive them that trespass against us ; and lead us not into temptation ; but deliver us from evil ; for Thine is the kingdom, the power, and the glory, for ever and ever. *Amen.*

The grace of our Lord Jesus Christ, and the love of God, and the fellowship of the Holy Ghost, be with us all evermore. *Amen.*

### 3.—Weekly Religious Instruction by the Clergy of each Persuasion.

In order to correct misapprehension, and define more clearly the rights and duties of trustees and other parties in regard to religious instruction in connection with the public schools, it is decided by the Council of Public Instruction that the clergy of any persuasion, or their authorized representatives, shall have the right to give religious instruction to the pupils of their own church, in each school-house, at least once a week, after the hour of *four* o'clock in the afternoon; and if the clergy of more than one persuasion apply to give religious instruction in the same school-house, the trustees shall decide on what day of the week the school-house shall be at the disposal of the clergyman of each persuasion, at the time above stated. But it shall be lawful for the trustees and clergyman of any denomination to agree upon any hour of the day at which a clergyman, or his authorized representative, may give religious instruction to the pupils of his own church, provided it be not during the regular hours of the school.

## CHAPTER XXVIII.

### MISCELLANEOUS PROVISIONS OF THE LAW (OMITTED).

#### 1.—The Public School Teacher and his Duties, etc.\*

1. *To hold Public Quarterly Examinations.*—"To have at the end of each quarter a public examination of his school, of which he shall give due notice to the trustees of the school, to any school visitors who reside in or adjacent to such school section, and through the pupils to their parents and guardians."†—Clause (6), section 82, of the Consolidated Act.

\* As to the control of the teacher over the school-house, see decision No. 6 of the Court of Queen's Bench, on page 20.

† It will be seen by this clause of the Act, in connection with the first part of the eighty-second section, that "it shall ['Shall' here is imperative. See note on page 133] be the duty of every teacher of a school: (6) To have at the end of *each quarter* a public examination of his school." Teachers cannot, therefore, lawfully omit this part of their duty.

#### Form of Teacher's Circular Notice of the Quarterly Examination of his School.

School House of Section No. —,

187—.

SIR,—As required by law the quarterly examination of my school will be held on — day, the — of —, when the pupils of the school will be publicly examined in the several subjects

2. *To furnish Information to the Chief or Local Superintendent.*—“To furnish to the chief or local superintendent of schools when desired, any information which it may be in his power to give, respecting anything connected with the operations of his school, or in any wise affecting its interests or character.”—Clause (7), section 82, of the Consolidated Act.

3. *Protection of Teachers in regard to Salary.*\*—“Any teacher shall be entitled to be paid at the same rate mentioned in his agreement with the trustees (for form of agreement see page 55), even after the expiration of the period of his agreement, until the trustees pay him the whole of his salary, as teacher of the school, according to their engagement with him.” [No deduction whatever can be lawfully made from any teacher's salary for any allowed holidays or vacations: or for the exemption of indigent persons, authorized in the thirteenth clause of the twenty-seventh section of the Consolidated Public School Act, page 41]. It is illegal for teachers to retain forcible possession of either the key of the school-house or of the school register. See the first section of the School Law Amendment Act of 1860, on page 172.

4. *Arbitration between Trustees and Teachers abolished.*—“All matters of difference between trustees and teachers, authorized and required by the eighty-fourth, eighty-fifth, eighty-sixth and eighty-seventh sections of the Consolidated School Act, passed in the twenty-second year of Her Majesty's reign, and chaptered sixty-four; the ninth section of the School Law Amendment Act, passed in the twenty-third year of Her Majesty's reign, and chaptered forty-nine; and the ninth section of the Grammar School Improvement Act of 1865, passed in the twenty-ninth year of Her Majesty's reign, and chaptered twenty-nine, to be settled by arbitration, shall hereafter be brought and decided in the Division Court by the judge of the county court in each county; and the said clauses of the said Acts are hereby repealed; Provided always, that the decision of any county judge in all such cases may be appealed from, as provided in the one hundred and eighth and five following sections, or sub-sections of the said Consolidated Public School Act, and the twenty-eighth section of this Act.”—Section 27, School Act of 1871.

which they have been taught during the quarter now closing. The exercises will commence at 9 o'clock, a.m., and you are respectfully requested to attend them.

I am, Sir, your obedient servant,

A. B., Teacher.

To C. D., School Trustee, or Visitor.

REMARKS.—A copy of the above notice ought to be sent to each of the trustees, and to as many visitors of the school as possible. [For list of visitors see section one hundred of the Consolidated School Act, page 139.] The teacher should address a circular notice to those of them who reside within three miles of his school. He is also required to give notice, through his pupils, to their parents and guardians and to the neighbourhood, of the examination. For holidays and vacations see “General Regulations” on page 69.

\* The Assessment Law does not exempt a school teacher either from the payment of a tax upon his salary (if over \$400 per annum), or from the performance of two days of statute labour, if his salary be under \$400.

5. *Provision for Securing a Teacher's Residence.*—"The trustees of any school section or municipality shall have the same authority to provide a residence for a school teacher that they now have by law to provide a school site."—Section 20, School Act of 1871.

6. *Penalty on County Clerks for Delaying Returns.*—By the thirteenth section of the Consolidated Municipal Statistical Returns Act, 22 Vict. chap. 33, a penalty of *twenty* dollars is imposed on clerks of counties for delaying to make the returns required by that law; and the Receiver General is authorized to retain moneys which would otherwise be payable to the municipality. See also the section of the Municipal Institutions Act, quoted on page 109; and also note to the one hundred and twenty-fourth section of this Act.

7. *The word "month."*—The eleventh clause of the sixth section of the Consolidated Provincial Statutes General Interpretation Act, 22 Vict. chap. 5, enacts that "the word month," in any Provincial Statute, "shall mean a calendar month."

8. *The meaning of the word "misdemeanor."*—The term "misdemeanor" is applied to all those crimes and offences inferior to felony, for which the law has not provided a particular name.

9. *Collector and Secretary-Treasurer.*—The collector should take a receipt from the secretary-treasurer of the section for all moneys paid him. The secretary-treasurer should also take a receipt from the teacher for all moneys paid him. The taking and giving receipts for moneys paid and received will prevent errors and misunderstandings. See pages 23 and 28.

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## CHAPTER XXIX.

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### MISCELLANEOUS DECISIONS OF THE SUPERIOR COURTS.

(1). *Power to levy school rate at any time.*—Under the Acts relating to common schools, school trustees may *at any time* impose and levy a rate for school purposes; they are not bound to wait until a copy of the revised assessment roll for the particular year has been transmitted to the clerk of the municipality, but may and can only use the existing revised assessment roll.—*The Chief Superintendent of Education, In re Hogg v. Rodgers*, 15 Q. B. R. 417.

(2). *Embezzlement—A Trustee, not being Secretary-Treasurer, cannot receive or retain school moneys.*—The Court of Common Pleas has decided that a school trustee having money in his hands, not as secretary and treasurer of a board, or in any official capacity, cannot embezzle such money, *his duty as trustee not requiring or authorizing him to receive it.*—*Farris v. Irwin* (No. 16, *Darlington*), 10 C. P. R. 116.

(3). *Loan to School Trustees—Personal liability—Change of school site.*—Two of the trustees of a school section, wishing to change the school site, called a meeting of the freeholders and householders, who rejected the proposal. The two trustees thereupon chose an arbitrator, assuming to act under sec. 30 Consol. Stat. U. C. ch. 64, but none was chosen by the freeholders and householders, and under the advice of the Deputy Superintendent, the trustees called another meeting, at which a motion to appoint such arbitrator was rejected. The trustees' arbitrator and the local superintendent thereupon made an award changing the site. A special meeting was then called to consider how the money should be raised to carry out the change, at which the conduct of the trustees and the change was strongly disapproved of. The two trustees thereupon petitioned the township council, stating that the ratepayers were desirous of purchasing a new site, and asking for a loan of \$400, "for which the trustees will bind themselves to pay the interest annually, and the principal when due." This was granted, and secured by two instruments as follows:—

"We, the undersigned, Trustees of School Section No. 11, do hereby promise to pay the Treasurer of the Corporation of Toronto Township, or," &c.

(Signed)

M.

D.

} Trustees.

with the corporate seal affixed. The money was expended for the purpose mentioned. The township corporation having sued the trustees individually on these notes, and on the common counts: *Held*, that they could not recover on the notes, for, 1, They were payable to the treasurer; and 2, The defendants were not personally liable upon them. *Held*, also, *Wilson, J.*, dissenting, the defendants were not liable upon the common counts either, for the obligation of all parties plainly was that the trustees as a corporation should be bound, not the defendants personally; and there being no fraud and concealment on their part, the fact that they as a corporation had no authority to borrow, nor the plaintiffs to lend, could not, under the circumstances make them personally liable. *See also, per Richards, C. J.*, that under section 30, the difference of opinion as to the change of site authorized a reference to arbitration; but that the refusal of the freeholders and householders to name an arbitrator, did not enable the other two arbitrators to proceed, the proper course being to compel the appointment by mandamus. *Per Wilson, J.*, the difference of opinion must be as to the position of the new site, after the change has been agreed to by the rate-payers, not as to whether there shall be a change; and the arbitration, therefore, was unauthorized.—*The Corporation of the Township of Toronto v. McBride et al., Executors of William McBride*, 29 Q. B. R. 13.

(4). *Union of High and Public School Boards.*—[NOTE.—The following decision was virtually overruled by decision No. 14, on page 116.] The United Board of Grammar and Common School Trustees of the village of Trenton applied for a mandamus to the corporation of Trenton to levy a sum of money, required by them for grammar school purposes, as mentioned in the estimate; supporting the application by an affidavit of their secretary, who stated that the trustees of the village of Trenton County Grammar School had united with the Board of School Trustees of the village of Trenton, and the same became, and had ever since been, the United Board of Grammar and Common School Trustees in the village. *Held*, that such union of the two boards of trustees was not authorized by the Statutes. Consol. Statutes U. C., ch. 63, sec. 25, sub-sec. 7, and ch. 64, sec. 79, sub-sec. 9, and the application was therefore refused.—*School Trustees of Trenton and the Corporation of Trenton*, 26 Q. B. R. 353.

(5). *Judgment against School Trustees—Mandamus to levy rate refused.*—In 1862, the trustees of a school section issued their warrant to I. to levy a rate. One S., who was upon the roll, claimed exemption as belonging to a Roman Catholic separate school, and in 1863 recovered against I. in replevin for his goods which I. had seized. I. in 1866 sued the trustees of that year for indemnity,

and recovered judgment, the action being defended. The trustees issued their warrant to levy a rate including this judgment, and about \$100 was levied and paid over to I., but many of the ratepayers refused to pay the proportion imposed for I.'s claim. I. then, in 1869, having had a *fi. fa.* on his judgment returned no goods, applied for a mandamus to the trustees to levy the balance due to him, none of these trustees having been trustees in 1866. The application was refused, on the ground that the court might inquire into the ground of the judgment; that the applicant was bound, but had failed to show clearly that it was recovered in a justifiable litigation. *Quere*, however, whether apart from this the application could be granted, for the effect would be to levy a rate on a different boy to pay the debt of a previous year.—*In re Johnson and the Trustees of School Section No. 13 in the Township of Harwich*, 30 Q. B. R. 264.

(6). *Coloured People—Right of admission to schools—Mandamus.*—In answer to an application for a mandamus to the school trustees of a town to admit the applicant's son, a coloured boy, to the public school in his ward, it was sworn that since 1846, a school had been set apart for the coloured inhabitants, and that the school to which admission was desired was overcrowded, and had no room for any additional children. There was, however, no separate school legally established for coloured people, the Act authorizing such schools having been passed after the setting apart of the school above mentioned: *Held*, that on the ground only of want of accommodation the writ must be refused; but as admission had been refused on account of the boy's colour, the trustees were ordered to pay the costs of the application.—*In re Hutchinson and the Board of School Trustees of St. Catharines*, 31 Q. B. R. 274.

(7). *Coloured people—Separate schools.*—*Held*, that upon the facts apparent on the affidavits in this case, either no separate school extending to the applicant had been established for coloured persons within the statute, or it had been discontinued, and that he was therefore entitled to a mandamus to the trustees to admit his daughter to the common school. The erection of a separate school suspends but does not annul the rights of those for whom it was established as regards the common schools. When it is no longer kept up these rights revive.—*In re George Stewart and the Trustees of School Section No. 8 of the Township of Sandwich East, in the County of Essex*, 23 Q. B. R. 634.

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## CHAPTER XXX.

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### TEXT BOOKS FOR THE PUBLIC SCHOOLS.

NOTE.—In the following list, some books are *prescribed*, and others are *recommended*. The use of the books *recommended* is discretionary with the respective public school boards.

#### 1.—English.

*Text Books Prescribed.*—The Canadian National Series of Reading Books (authorized edition). The Spelling Book, a Companion to the Readers (authorized edition). Miller's Analytical and Practical English Grammar (authorized edition). An English Grammar for Junior Class; by the Rev. H. W. Davies, D.D.; (authorized edition). A History of English Literature, in a series of Biographical Sketches; by William Francis Collier, LL.D.

**2.—Arithmetic and Mathematics.**

*Text Books prescribed.*—Advanced Arithmetic for Canadian Schools; by Rev. Barnard Smith, M.A., and Archibald McMurchy, M.A.; (authorized edition). Elementary Arithmetic for Canadian Schools; by Rev. Barnard Smith, M.A., and Archibald McMurchy, M.A.; (authorized edition). Elements of Algebra; Todhunter's or Sangster's. Euclid's Elements of Geometry; Pott's or Todhunter's.

**3.—Geography and History.**

*Text Books Prescribed.*—Lovell's General Geography; by J. George Hodgins, LL.D., Barrister-at-law; (authorized edition). Easy Lessons in General Geography; by J. George Hodgins, LL.D., Barrister-at-law; (authorized edition). A School History of the British Empire; by William Francis Collier, LL.D. A History of Canada and of the other British Provinces of North America; by J. George Hodgins, LL.D., Barrister-at-law. Outlines of General History; by William Francis Collier, LL.D.

*Text Books Recommended.*—The Great Events of History; by William Francis Collier, LL.D.

**4.—Physical Science.**

*Text Books Prescribed.*—(See note above.) Rudimentary Mechanics; by Charles Tomlinson; portions relative to the mechanical powers. The Animal Kingdom; by Ellis A. Davidson. How Plants Grow: a Simple Introduction to Botany, with Popular Flora; by Asa Gray, M.D.

**5.—Miscellaneous.**

*Text Books Prescribed.*—First Lessons in Agriculture; by Rev. Dr. Ryerson. Our Bodies\*; by Ellis A. Davidson (22 cts.). Easy Lessons on Reasoning; by Archbishop Whately. The Dominion Accountant; by W. R. Orr; (authorized edition).

*Text Books Recommended.*—(See note above.) First Lessons in Christian Morals; by Rev. Egerton Ryerson, D.D., LL.D. A Comprehensive System of Book-keeping, by single and double entry; by Thomas R. Johnsen. Field Exercise and Evolutions of Infantry; published by authority; (pocket edition for Squad and Company Drill). The Modern Gymnast; by Charles Spencer. A Manual of Vocal Music; by John Hullah. Three Part Songs; by H. F. Sefton; (authorized edition). National Mensuration. Scripture Lessons—Old and New Testaments (National). Lessons on the Truth of Chris-

\* The following little works are also highly recommended (1871) for perusal, both by teachers and pupils, viz: "The House I live in," by T. C. Girlin, Surgeon, (Longmans); and "Our Earthly House and its Builder," (Religious Tract Society.) Cutter's "First Book on Anatomy, Physiology and Hygiene, for Grammar Schools and Families," is the prescribed book for high schools, and may be used in the public schools if desired.

tianity (National). Right Lines in their Right Places; by Ellis A. Davidson. Teacher's Guide, and Bartholomew's Primary School Drawing Cards; by Miss J. H. Stickney. The Drawing Book for the Dominion of Canada, in progressive studies, seven numbers. William Hernes' Drawing Instructor for advanced students. Writing copy books, used in the Normal and Model Schools of Ontario, in six parts.

### 6.—French and German Schools.

The following books, approved by the whole Committee of the Council of Public Instruction for Québec, are also sanctioned for use by French pupils in public schools of this Province, in which there are both Protestant and Roman Catholic pupils:—Cours d'Arithmétique Commerciale (Senécal, Montreal). Abrégé de la Géographie Moderne (Société d'Éducation de Québec). La Géographie Moderne, de M. Holmes, M.A. Grammaire pratique de la langue Anglaise; par P. Saddler, Paris. Traité Élémentaire d'Arithmétique; par F. X. Toussaint. Le Premier Livre de l'Enfance, (de Poitevin). Cours de Versions Anglaises; par P. Saddler, Paris. Grammaire Française Élémentaire; par F. P. B. For German Schools, Klotz's German Grammar is sanctioned.

### 7.—Books "Prescribed" and those "Recommended."

It will be seen by the foregoing lists, that some books are "prescribed" for use in the public schools, while others are only "recommended." The use of the books "recommended" is entirely discretionary with the respective public school corporations. Among this latter class are the "First Lessons on Christian Morals," and some other books. (See list.)

### 8.—"Authorized Editions" of Books, the Property of the Council.

The copyright of all the books in the foregoing list, marked "Authorized edition," is vested in the Council of Public Instruction, (in the name of the Chief Superintendent). These books may be reprinted by any publisher upon complying with the regulations of the Council on the subject.

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# CHAPTER XXXI.

## PROTESTANT AND COLOURED SEPARATE SCHOOL ACT.

### Consolidated Statutes of Ontario, 22 Vic. chap. 65.

Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

*Conditions on which Separate Schools for Protestants or Coloured people may be established—Limits.*

1. Upon the application in writing of twelve or more heads of families resident in any township, city, town, or incorporated village, being Protestants, the Municipal Council of the said township, or the board of school trustees of any such city, town, or incorporated village, shall authorize the establishment therein of one or more separate schools for Protestants; and upon the application in writing of twelve or more heads of families resident in any township, city, town, or incorporated village, being coloured people, the council of such township, or the board of school trustees of any such city, town, or incorporated village, shall authorize the establishment therein of one or more separate schools for coloured people, and in every such case, such council or board, as the case may be, shall prescribe the limits of the section or sections of such schools.

The following proviso shall be added to section one of chapter sixty-five of the Consolidated Statutes of Upper Canada, and be taken and read as part thereof :  
 "Provided always that no person shall be deemed a supporter of any separate school for coloured people unless he resides within three miles, in a direct line, of the site of the school house for such separate school; and any coloured child residing further than three miles, in a direct line from the said school house, shall be allowed to attend the common school of the section within the limits of which the said child shall reside.

*Three Trustees—Election same as in Common School.*

2. There shall be three trustees for each separate school, and the first meeting for the election of such trustees, shall be held and conducted in the manner, and according to the rules provided in the sixth to the eleventh sections of the Act respecting common schools for holding the first school meeting in a new school section.

*Commencement of Separate School and Regulations.*

3. Each such separate school shall go into operation at the same time as is provided in the case of altered school sections of common schools, and shall, with respect to the persons for whom any school has been established, be under the same regulations as common schools generally.

*Separate School voters defined.*

4. None but coloured people shall vote at the election of trustees of any separate school established for coloured people, and none but the parties petitioning for the establishment of, or sending children to a separate Protestant school, shall vote at the election of trustees of such school.

*Union of Wards in Cities and Towns.*

5. In any city or town, the persons who make application, according to the provisions of the first section of this Act, may have a separate school in each ward, or in two or more wards united, as the said persons may judge expedient.

*Special Conditions.*

6. No Protestant separate school shall be allowed in any school section, except where the teacher of the common school in such section is a Roman Catholic.

*Exemption from Common School Rates.*

7. In all cities, towns, incorporated villages, and township common school sections in which such separate schools exist, each Protestant or coloured person (as the case may be) sending children to any such school, or supporting the same by subscribing thereto annually an amount equal to the sum at which such person, if such separate school did not exist, must have been rated in order to the obtaining the annual Legislative Common School Grant, shall be exempt from the payment of all rates imposed for the support of common schools of such town, incorporated village, and school section respectively, and of all rates imposed for the purpose of obtaining such common school grant.

*Exemption from Common School Rates Conditional.*

8. The exemption from the payment of school rates, as herein provided, shall not extend beyond the period during which such persons send children to, or subscribe as aforesaid for the support of such separate school; nor shall such exemption extend to school rates, or taxes imposed or to be imposed to pay for school houses, the erection of which was undertaken or entered into before the establishment of such separate school.

*Not to share in Municipal Assessment.*

9. Such separate schools shall not share in any school money raised by local municipal assessment.

*Share of Legislative School Grant determined.*

10. Each such separate school shall share in such Legislative Common School Grant according to the yearly average number of pupils attending such separate school, as compared with the average number of pupils attending the common school in each such city, town, incorporated village, or township; the mean attendance of pupils for winter and summer being taken.

*Certificate of Teachers to be signed by Trustees.*

11. A certificate of qualification, signed by the majority of the trustees of such separate school, shall be sufficient for any teacher of such school.

*Half-yearly returns to be sent to the Local Superintendent.*

12. The trustees of each such school shall, on or before the thirteenth day of June, and thirty-first day of December of each year, transmit to the local superintendent of schools a correct return of the names of all Protestants or coloured persons (as the case may be), who have sent children to, or subscribed as aforesaid for the support of such separate school during the then last preceding six months, and the names of the children sent, and the amount subscribed by them respectively, together with the average attendance of pupils in such separate school during such period.

*Local Superintendent to report to Clerk and Trustees.*

13. The local superintendent shall, upon the receipt of such return, forthwith make return to the clerk of the municipality, and to the trustees of the common

school section or municipality in which such separate school is established, stating the names of all the persons, who, being Protestants or coloured people (as the case may be), contribute or send children to such separate school.

*Clerks and Trustees to exempt from Rates supporters of Separate Schools.*

14. Except for any rate for building school houses, undertaken before the establishment of such separate schools, the clerk shall not include in the collector's roll for the general or other school rate, and the trustees or board of trustees shall not include in their school rolls any person whose name appears upon such last mentioned return.

*Township Clerk to allow use of Assessor's Roll.*

15. The clerk or other officer of the municipality within which such separate school is established, having possession of the assessor's or collector's roll of the said municipality, shall allow any one of the said trustees, or their authorized collector, to make a copy of such roll as far as it relates to their school section.

*Common School Act to apply to Separate Schools.*

16. The provision of the *one hundred and thirty-eighth* section of the Act respecting common schools shall apply to the trustees and teachers of such separate schools.

*Separate School Trustees to have same power as Common School Trustees.*

17. The trustees of each such separate school shall be a body corporate, under the name of the "Trustees of the separate school of ——— (as the case may be), in the Township, City, or Town (as the case may be), of ———," and shall have the same power to impose, levy, and collect school rates or subscriptions, upon and from persons sending children to or subscribing towards the support of the separate school, as the trustees of a common school section have to impose, levy and collect school rates and subscriptions from persons having property in the section, or sending children to or subscribing towards the support of the common school of such section.

## CHAPTER XXXII.

### ROMAN CATHOLIC SEPARATE SCHOOL ACT.

#### 26 Vic. chap. 5—Assented to 5th May, 1863.

Whereas it is just and proper to restore to Roman Catholics in Upper Canada certain rights which they formerly enjoyed in respect to separate schools, and to bring the provisions of the law respecting separate schools more in harmony with the provisions of the law respecting common schools: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

*Roman Catholic Separate School Act of 1855 repealed.*

1. Sections eighteen to thirty-six, both inclusive, of chapter sixtyfive of the Consolidated Statutes for Upper Canada, intituled, "An Act respecting separate schools," are hereby repealed, and the following shall be substituted in lieu thereof, and be deemed to form part of the same Act.

*Five Roman Catholic heads of families may call a meeting.*

2. Any number of persons, not less than five, being heads of families, and freeholders or householders, resident within any school section of any township, incorporated village, or town, or within any ward of any city or town, and being Roman Catholics, may convene a public meeting of persons desiring to establish a separate school for Roman Catholics, in such school section or ward, for the election of trustees for the management of the same.

*Majority present at School Meeting to elect three Trustees.*

3. A majority of the persons present, being freeholders or householders, and being Roman Catholics, and not candidates for election as trustees, may, at any such meeting, elect three persons resident within such section, or an adjoining section, to act as trustees for the management of such separate school, and any person, being a British subject, not less than twenty-one years of age, may be elected as a trustee, whether he be a freeholder or a householder, or not.

*Notice of Establishment of Roman Catholic Separate School.*

4. Notice in writing that such meeting has been held, and of such election of trustees, shall be given by the parties present at such meeting to the reeve or head of the municipality, or to the chairman of the board of common school trustees, in the township, incorporated village, town, or city in which such school is about to be established, designating by their names, profession, and residence, the persons elected in the manner aforesaid, as trustees for the management thereof: and on every such notice it shall be the duty of the officer receiving the same to endorse thereon the date of the receipt thereof, and to deliver a copy of the same so endorsed and duly certified by him to such trustee, and from the day of the delivery and receipt of every such notice, or in the event of the neglect or refusal of such officer to deliver a copy so endorsed and certified, then from the day of the delivery of such notice, the trustees herein named shall be a body corporate, under the name of "The trustees of the Roman Catholic separate school for the section number —, in the township of —, or for the ward of —, in the city or town (as the case may be), or for the village of —, in the county of —." [The Provincial Statutes General Interpretation Consolidated Act, 22 Vict. c. 5, further adds in regard to corporations: 6. \* \* \* "Twenty-fourthly. Words making any association or number of persons a corporation, with power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or movables for the purpose for which the corporation is constituted, and to alienate the same at pleasure; and shall also vest in any majority of the members of the corporation, the power to bind the others by their acts, and shall exempt the individual members of the corporation from personal liability for its debts or obligations, or acts, provided they do not contravene the provisions of the Act incorporating them; but no corporation shall carry on the business of banking (*i. e.*, taking or issuing promissory notes, &c.), unless when such power is expressly conferred on them by the Act creating such corporation."]

*Board of Roman Catholic Separate School Trustees in Cities and Towns.*

5. The trustees of separate schools heretofore elected, or hereafter to be elected, according to the provisions of this Act, in the several wards of any city or town, shall form a body corporate, under the title of "The Board of Trustees of the Roman Catholic separate schools for the city (or town) of —."

*Union of Roman Catholic Separate Schools in one or more School Sections.*

6. It shall be lawful for the majority of the ratepaying supporters of the separate school, in each separate school section, whether the sections be in the same or

adjoining municipalities, at a public meeting duly called by the separate school trustees of each such section, to form such sections into a separate school union section, of which union of sections the trustees shall give notice within fifteen days to the clerk or clerks of the municipality or municipalities, and to the chief superintendent of education; and each such separate school union section thus formed, shall be deemed one school section for all Roman Catholic separate school purposes, and shall every year thereafter be represented by three trustees, to be elected as in common school sections.

*Union Roman Catholic Separate School Section—Corporation formed.*

(2). And the said trustees shall form a body corporate, under the title of "The Board of trustees of the Roman Catholic united separate schools for the united sections Nos. — (as the case may be), in the — (as the case may be)."

*Powers of Roman Catholic Separate School Trustees.*

7. The trustees of separate schools forming a body corporate under this Act, shall have the same power to impose, levy, and collect school rates or subscriptions, upon and from persons sending children to, or subscribing towards the support of such schools, and shall have all the powers in respect of separate schools, that the trustees of common schools have and possess under the provisions of the Act relating to common schools.

*R. C. Separate School Trustees may copy Assessment Roll of Municipality.*

8. The clerk or other officer of a municipality, within or adjoining which a separate school is established, having possession of the assessor's or collector's roll of the said municipality, shall allow any one of the said trustees, or their authorized collector, to make a copy of such roll in so far as it relates to the persons supporting the separate school under their charge.

*Declaration of Office by Roman Catholic Separate School Trustees.*

9. The trustees of separate schools shall take and subscribe the following declaration before any justice of the peace, reeve, or chairman of the board of common schools:—"I, —, will truly and faithfully, to the best of my judgment and ability, discharge the duties of the office of school trustee to which I have been elected;" and they shall perform the same duties, and be subject to the same penalties, as trustees of common schools; and teachers of separate schools shall be liable to the same obligations and penalties as teachers of common schools.

*Term of Office of Roman Catholic Separate School Trustees.*

10. The trustees of separate schools shall remain respectively in office for the same periods of time that the trustees for common schools do, and as is provided by the thirteenth section and its sub-section of the Common School Act of the Consolidated Statutes for Upper Canada; but no trustee shall be re-elected without his consent, unless after the expiration of four years from the time he went out of office: Provided always, that whenever in any city or town divided into wards, a united board now exists, or shall be hereafter established, there shall be for every ward two trustees, each of whom, after the first election of trustees, shall continue in office two years, and until his successor has been elected, and one of such trustees shall retire on the second Wednesday in January, yearly in rotation; and provided also, that at the first meeting of the trustees after the election on the second Wednesday in January next, it shall be determined by lot, which of the said trustees, in each ward, shall retire from office at the time appointed for the next annual election, and the other shall continue in office for one year longer.

*Period of Office—Time and Mode of R. C. Separate School Trustees Election.*

11. After the establishment of any separate school, the trustees thereof shall hold office for the same period, and be elected at the same time in each year that the trustees of common schools are, and all the provisions of the Common School Act relating to the mode and time of election, appointments and duties of chairman and secretary at the annual meetings, term of office, and manner of filling up vacancies, shall be deemed and held to apply to this Act.

*Roman Catholic Children admitted from other School Sections.*

12. The trustees of separate schools may allow children from other school sections, whose parents or lawful guardians are Roman Catholics, to be received into any separate school under their management, at the request of such parents or guardians; and no children attending such school shall be included in the return hereafter to be made to the Chief Superintendent of Education, unless they are Roman Catholics.

*Roman Catholic Separate School Teachers' Certificate of Qualification.*

13. The teachers of separate schools under this Act shall be subject to the same examinations, and receive their certificates of qualification in the same manner as common school teachers generally; provided, that persons qualified by law as teachers, either in Upper or Lower Canada, shall be considered qualified teachers for the purposes of this Act.

*Supporters of R. C. Separate Schools Exempt from Common School Rates.*

14. Every person paying rates, whether as proprietor or tenant, who, by himself or his agent, on or before the first day of March in any year, gives, or who, on or before the first day of March, of the present year, has given to the clerk of the municipality notice in writing that he is a Roman Catholic, and a supporter of a separate school situated in the said municipality, or in a municipality contiguous thereto, shall be exempt from the payment of all rates imposed for the support of common schools, and of common school libraries, or for the purchase of land, or erection of buildings for common school purposes, within the city, town, incorporated village, or section in which he resides, for the current year, and every subsequent year thereafter, while he continues a supporter of a separate school. And such notice shall not be required to be renewed annually; and it shall be the duty of the trustees of every separate school to transmit to the clerk of the municipality, or clerks of the municipalities (as the case may be), on or before the first day of June in each year, a correct list of the names and residences of all persons supporting the separate schools under their management; and every ratepayer whose name shall not appear on such list shall be rated for the support of common schools.

*Certificate of Notice to Municipal Clerk to be given by him.*

15. Every clerk of a municipality, upon receiving any such notice, shall deliver a certificate to the person giving such notice, to the effect that the same has been given, and showing the date of such notice.

*Penalty for fraudulent notice.*

16. Any person who fraudulently gives any such notice, or wilfully makes any false statement therein, shall not thereby secure any exemption from rates, and shall be liable to a penalty of forty dollars, recoverable with costs, before any justice of the peace at the suit of the municipality interested.

*Exemption as to Common School rates already imposed.*

17. Nothing in the last three preceding sections contained shall exempt any person from paying any rate for the support of common schools or common school

libraries, or for the erection of a school-house or school-houses, imposed before the establishment of such separate school.

*Persons may withdraw their support from Roman Catholic Separate Schools.*

18. Any Roman Catholic, who may desire to withdraw his support from a separate school, shall give notice in writing to the clerk of the municipality, before the second Wednesday in January in any year, otherwise he shall be deemed a supporter of such school: Provided always, that any such person who shall have withdrawn his support from any Roman Catholic separate school, shall not be exempt from paying any rate for the support of separate schools or separate school libraries, or for the erection of a separate school-house, imposed before the time of his withdrawing such support from the separate school.

*Supporters of a Roman Catholic Separate School defined.*

19. No person shall be deemed a supporter of any separate school unless he resides within three miles (in a direct line) of the site of the school-house.

*Condition of sharing in Legislative School and other Grants.*

20. Every separate school shall be entitled to a share in the fund annually granted by the Legislature of this Province for the support of common schools, and shall be entitled also to a share in all other public grants, investments, and allotments for common school purposes now made or hereafter to be made by the Province or the municipal authorities, according to the average number of pupils attending such school during the twelve next preceding months, or during the number of months which may have elapsed from the establishment of a new separate school, as compared with the whole average number of pupils attending school in the same city, town, village, or township.

*Roman Catholic Separate Schools not to share in Municipal Assessment.*

21. Nothing herein contained shall entitle any such separate school within any city, town, incorporated village, or township, to any part or portion of school moneys arising or accruing from local assessment for common school purposes within the city, town, village, or township, or the county or union of counties within which the city, town, village or township is situate.

*Half-Yearly Return to be sent to Chief Superintendent.*

22. The trustees of each separate school shall, on or before the thirtieth day of June, and the thirty-first day of December of every year, transmit to the Chief Superintendent of Education for Upper Canada, a correct return of the names of the children attending such school, together with the average attendance during the next six preceeding months, or during the number of months which have elapsed since the establishment thereof, and the number of months it has been so kept open; and the Chief Superintendent shall thereupon determine the proportion which the trustees of such separate school are entitled to receive out of the Legislative Grant, and shall pay over the amount thereof to such trustees.

*Who are Visitors of Roman Catholic Separate Schools.*

23. All judges, members of the Legislature, the heads of the municipal bodies in their respective localities, the Chief Superintendent and local superintendent of common schools, and clergymen of the Roman Catholic Church, shall be visitors of separate schools,

*Election of Roman Catholic Separate School Trustees void in certain cases.*

24. The election of trustees for any separate school shall become void, unless a separate school be established under their management within three months from the election of such trustees.

*Supporters of R. C. Separate Schools not to vote at Common School Elections.*

25. No person subscribing towards the support of a separate school established as herein provided, or sending children thereto, shall be allowed to vote at the election of any trustee for a common school in the city, town, village, or township in which such separate school is situate.

*Official Inspection of Roman Catholic Separate Schools.*

26. The Roman Catholic Separate Schools (with their registers) shall be subject to such inspection as may be directed from time to time by the Chief Superintendent of Education, and shall be subject also to such regulations as may be imposed from time to time by the Council of Public Instruction for Upper Canada.

*Disagreement between Roman Catholic Trustees and Officials.*

27. In the event of any disagreement between trustees of Roman Catholic separate schools and local superintendents of common schools, or other municipal authorities, the case in dispute shall be referred to the equitable arbitration of the Chief Superintendent of Education in Ontario, subject, nevertheless, to appeal to the Governor in Council, whose award shall be final in all cases.

*When this Act takes effect.*

28. This Act shall come into force, and take effect from and after the thirty-first day of December next; but all contracts and engagements made and rates imposed, and all corporations formed under the separate school law hereby repealed, shall remain in force as if made under the authority of this Act.



ANALYTICAL INDEX

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TOGETHER WITH

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AND THE

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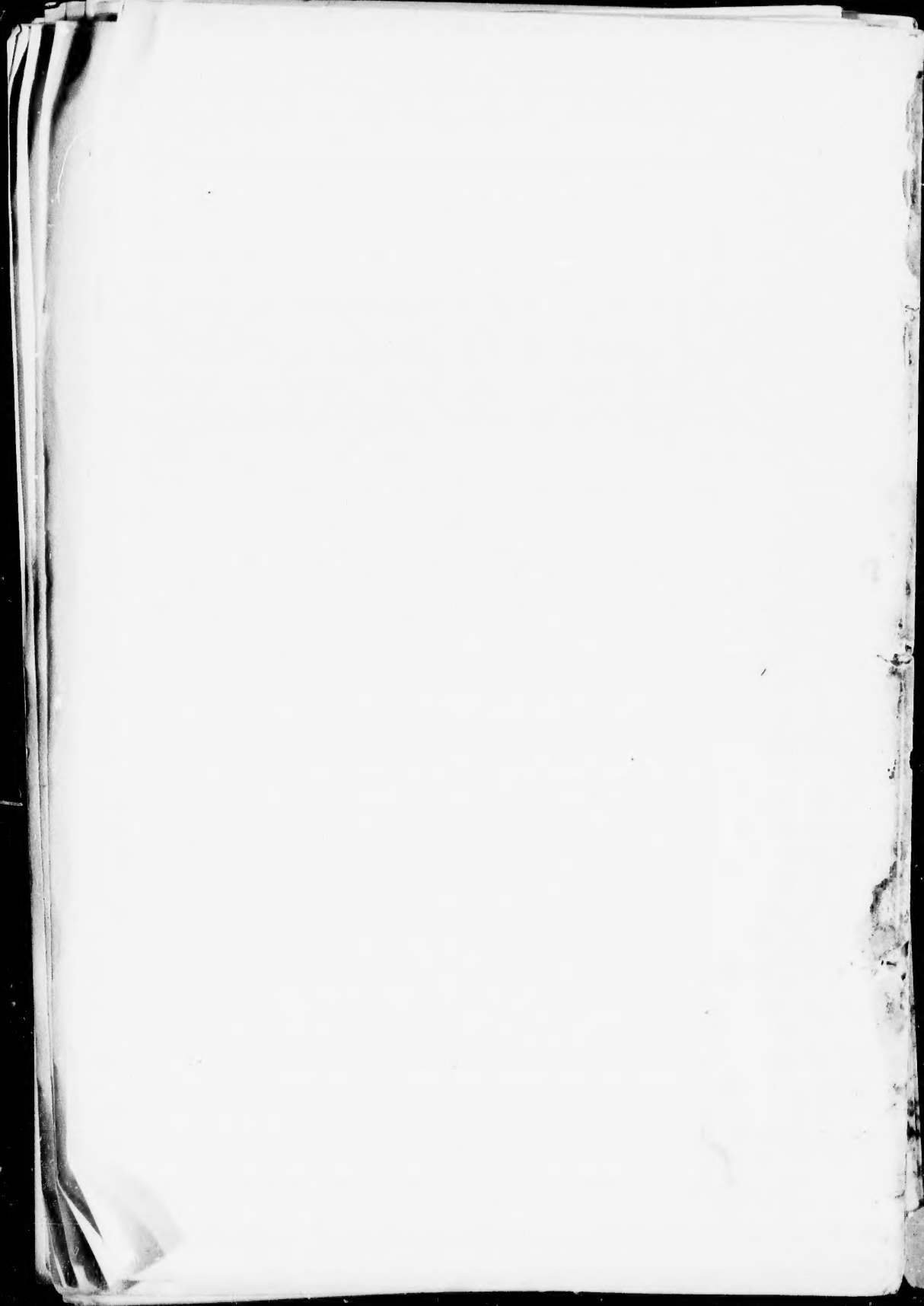
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